

another way to get to the Supreme Leader. Maybe it is through some of these private contacts. Why has that not been coordinated? I know the White House is involved in this, but do they know about that 2011 meeting? If FBI agents were there on the case, why was the White House not informed along with the leadership of the FBI? Something is terribly amiss, and we need to get to the bottom of it.

Sadly, on this ninth year of Bob Levinson's disappearance, a patriotic American who—poof—on the way to the airport disappeared from Kish Island, Iran—sadly, 9 years later, there is no information about bringing Bob Levinson home.

To the President of the United States, the Secretary of State, the head of the FBI, the head of all of our alphabet agencies: It is time to get the information about Bob and bring him home.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LANKFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROUNDS). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2015

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 524, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 524) to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

Pending:

Grassley amendment No. 3378, in the nature of a substitute.

Grassley (for Donnelly/Capito) modified amendment No. 3374 (to amendment No. 3378), to provide follow-up services to individuals who have received opioid overdose reversal drugs.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided between the two managers or their designees.

The Senator from Oklahoma.

REMEMBERING JUSTICE SCALIA

Mr. LANKFORD. Mr. President, on February 13, 2016, the Supreme Court lost one of its Justices, our Nation lost a true legal giant.

Justice Scalia was described by colleagues as "extraordinary," "treasured," and "a stylistic genius." Beyond his unwavering dedication to upholding the originalist viewpoint of the Con-

stitution, Justice Scalia was also wholeheartedly committed to his family. He was a husband, father of 9, and grandfather to 36 grandchildren.

His son Paul said of him during his homily:

God blessed Dad with a love for his family. . . . He was the father that God gave us for the great adventure of family life. . . . He loved us, and sought to show that love. And sought to share the blessing of the faith he treasured. And he gave us one another, to have each other for support. That's the greatest wealth parents can bestow, and right now we are particularly grateful for it.

Justice Antonin Scalia was nominated to the Supreme Court in 1986 by President Reagan and was confirmed by the Senate in a unanimous vote. While his time on the Court often led to some criticism of his legal opinions and his very colorful dissents, he remained respected by his colleagues, even those of the opposite end of the judicial spectrum. This is a sign of true character—to have an open, honest debate about a particular issue while respecting the individual person holding an opinion different from your own.

Justice Scalia said:

I attack ideas. I don't attack people. And some very good people have some very bad ideas. And if you can't separate the two, you gotta get another day job.

The sentiment was best portrayed through his friendship with Justice Ginsburg. As one of his friends, she said:

We are different, but we are one. Different in our interpretation of written texts. One in our reverence for the Constitution and the institution we serve. From our years together on the D.C. Circuit, we were best buddies. We disagreed now and then, but when I wrote for the Court and received a Scalia dissent, the opinion ultimately released was notably better than my initial circulation.

Justice Scalia was known for his wit and his sarcasm in his writings, famously referring to legal interpretations of his colleagues as "jiggery-pokery," "pure applesauce," and "a ghoul in a late horror movie." Yet it was these same criticisms that Justice Ginsburg said nailed the weak spots in her opinions and gave her what she needed to strengthen her writings.

Justice Scalia represented a consistent, constitutional voice on the Supreme Court. Just as the Constitution is the pillar of our legal system, so too is his affirmation to this foundational document of our Nation. He said:

It is an enduring Constitution that I want to defend. . . . It's what did the words mean to the people who ratified the Bill of Rights or who ratified the Constitution, as opposed to what people today would like.

Justice Kennedy said:

In years to come any history of the Supreme Court will, and must, recount the wisdom, scholarship, and technical brilliance that Justice Scalia brought to the Court. His insistence on demanding standards shaped the work of the Court in its private discussions, its oral arguments, and its written opinions. Yet these historic achievements are all the more impressive and compelling because the foundations of Justice Scalia's jurisprudence, the driving force in all his

work, and his powerful personality were shaped by an unyielding commitment to the Constitution of the United States and to the highest ethical and moral standards.

FILLING THE SUPREME COURT VACANCY

Mr. President, with Justice Scalia's passing, we have a vacancy on the Court to fill.

The question is, When?

I would submit, with only months left until the Presidential election, that we should let the people decide.

I have heard over and over for the past 7 years that elections have consequences, but apparently some people seem to only think elections have consequences on Presidential elections. The American people elected a brand new Senate in 2014 because of their incredible frustration with the operation of the previous Senate and because of the direction that we are now heading under this President.

I have heard this argument for years: The President should be able to do what he wants. He is the President. But may I remind everyone of a document in our National Archives called the U.S. Constitution, which gives divided power to our Nation. The President is not over the Senate, not over the House, and not over the Supreme Court.

Hyperbole of this has been overwhelming to me in the debate of the past few weeks. I have heard that unless we replace Justice Scalia right now, we will "shut down the court." I have heard on this floor people say that if we don't replace Justice Scalia immediately, it is "dangerous," it is "unprecedented," it is unheard of. I have heard: "Do your job"—a failure to do your duty. I even heard one Senator say: "The Constitution says the President shall appoint and the Senate shall consent."

Well, let me show you article II, section 2 of the Constitution where that comes up. It says that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate"—the President shall nominate. That is his constitutional responsibility. But it is not the constitutional responsibility—it never says the Senate shall give consent to the President. Why? Because the Constitution gives the role of selecting a Supreme Court nominee in a 50-50 responsibility between the Senate and the President of the United States.

The President shall nominate; that is his responsibility. But that only moves forward with the advice and consent of the Senate. There is no "shall give consent." There is no requirement how it moves.

In fact, Alexander Hamilton in *The Federalist Papers*, on this very issue, said that the "ordinary power of appointment is confided to the President and Senate jointly."

This is a 50-50 agreement. What we are facing right now are incredible attacks on the chairman of the Judiciary

Committee because he dares to do what Vice President BIDEN, Senator SCHUMER, and Senator REID recommended years ago. I even heard that we shouldn't listen to the words of Vice President BIDEN. I would understand why people would say that, because when you go back to Vice President BIDEN's words, when he was a Senator and chairman of the Judiciary Committee, in the same spot Chairman GRASSLEY is in now, this is what, at that time, Senator BIDEN said. Senator BIDEN, chairman of the Judiciary Committee, arguing on this same issue, said: "Arguing from constitutional history and Senate precedent, I want to address one question and one question only: What are the rights and duties of the Senate in considering nominees to the Supreme Court?"

This is from Vice President BIDEN—then Senator BIDEN:

Some argue that the Senate should defer to the President in the selection process. They argue that any nominee who meets the narrow standards of legal distinction, high moral character, and judicial temperament is entitled to be confirmed in the Senate without further question. . . . Apparently, there are some in this body and outside this body who share that view.

I stand here today to argue that opposite proposition.

This is from Vice President BIDEN. He stated at that time:

We have quashed the myth that the Senate must defer to a President's choice of a Supreme Court Justice, the men and women at the apex of the independent third branch of Government.

Can our Supreme Court nomination and confirmation process, so wracked by discord and bitterness, be repaired in a Presidential election year?

Vice President BIDEN, as Senator BIDEN, said:

History teaches us that this is extremely unlikely. Some of our Nation's most bitter and heated confirmation fights have come in Presidential election years.

The Senate too, Mr. President, must consider how it would respond to a Supreme Court vacancy that would occur in the full throes of an election year.

Vice President BIDEN at that time said this:

It is my view that if the President goes the way of Presidents Fillmore and Johnson and presses an election-year nomination, the Senate Judiciary Committee should seriously consider not scheduling confirmation hearings on the nomination until after the political campaign season is over.

He said, instead:

It would be our pragmatic conclusion that once the political season is under way, and it is, action on a Supreme Court nomination must be put off until after the election campaign is over. That is what is fair to the nominee and is central to the process. Otherwise, it seems to me, Mr. President, we will be in deep trouble as an institution.

This past week Senator REID came to the floor to discuss Senator GRASSLEY and what he is doing, which is exactly what then-Senator BIDEN recommended to be done, and he made this statement. Senator REID said this past week:

Last Thursday, the senior Senator from Iowa addressed the Conservative Political

Action Conference, CPAC, which took place here in Washington. In his speech to them, here is what Senator Grassley said: "I feel it's about time that we have a national debate on the Supreme Court and how it fits in with our constitutional system of government."

Then Senator REID continued:

The chairman of the Judiciary Committee is suggesting that we reevaluate the Founding Fathers' work, reevaluate the Constitution of the United States, and change the Constitution of the United States. Why is Senator Grassley debating what the Constitution makes clear? The Senate must provide its advice and consent on nominees appointed by the President to the Supreme Court. Think of the irony. Justice Scalia was a strict constitutionalist. Yet now, in the weeks following his death, Senator Grassley wants to throw out the Constitution just because President Obama gets to pick Scalia's replacement.

That is what Senator REID said this week.

Let's look at what Senator REID said in 2005 on this exact same issue. In 2005, on this floor, Senator REID said: "The President of the United States has joined the fray to become the latest to rewrite the Constitution and reinvent reality."

This is speaking of President Bush at the time. Senator REID continued, "Speaking to fellow Republicans Tuesday night, two days ago. He said that the Senate 'has a duty to promptly consider each nominee on the Senate floor, discuss and debate their qualifications and then give them the up-or-down vote that they deserve.' Referring to the President's words—duty to whom? The duties of the Senate." This is from Senator REID in 2005:

The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give Presidential appointees a vote. The fact was even acknowledged by the majority leader that a vote is not required. Senator Byrd asked the majority leader if the Constitution accorded each nominee an up-or-down vote on the Senate floor. The answer was no. Senator Frist was candid. The answer was no. The language was not there, Senator Frist said. He is correct. Senators should read the same copy of the Constitution Senator Frist had memorized.

Continuing with what Senator REID said:

It is clear that the President misunderstands the meaning of the advice and consent clause. That is not how America works. The Senate is not a rubber stamp for the executive branch.

So earlier this week, Senator REID chastised Senator GRASSLEY, saying he wants to rewrite the Constitution. In 2005 Senator REID stood on this floor and encouraged all Members to read the Constitution—that it nowhere requires that we take an up-or-down vote. So I don't know which one to take on this—the current statements from Senator REID or the previous statements from Senator REID—because they are in direct contradiction.

Senator SCHUMER, on July 27, 2007, speaking about the last 18 months of President Bush's term as President, said:

For the rest of this President's term and if there is another Republican elected with the same selection criteria let me say this: We should reverse the presumption of confirmation. The Supreme Court is dangerously out of balance. We cannot afford to see Justice Stevens replaced by another Roberts; or Justice Ginsburg replaced by another Alito.

Given the track record of this President and the experience of obfuscation at the hearings, with respect to the Supreme Court, at least: I will recommend to my colleagues that we should not confirm a Supreme Court nominee except in extraordinary circumstances.

I have also heard: Don't look at the words but the actions. Senator REID, Senator SCHUMER, and, when they were here, Senator Obama and Senator BIDEN have all filibustered Supreme Court nominees when they were Senators—all four of them have. Suddenly, now this is a dangerous idea that will shut down justice and is completely unconstitutional, and there are shouts of "Do your job" that come from the same Senate leaders who blocked untold nominations from untold Republican Presidents and didn't allow amendments on basic bills.

There is a lot of emotion in this body. I get that. There are a lot of politics in this process. I would hope to bring some facts to light and to turn down the hyperbole and all the rhetoric. So let me bring some basic facts to this.

The last time a Supreme Court vacancy arose in an election year and the Senate approved a new appointee to the Court in that same year was 1932. Since there is no nominee right now, it would not be possible to fill the vacancy in time for that individual to hear cases in the spring session of the Supreme Court. That means any nomination selected now would only be able to serve—in our colleagues' arguments—in the fall, which is a much shorter session of the Supreme Court, before this President actually leaves. So we are talking about the final session at the end of this fall—a very few number of cases.

Justice Stephen Breyer, just a few weeks ago, stated this about the passing of Justice Scalia:

We'll miss him, but we'll do our work. For the most part, it will not change.

The Supreme Court is open and is working this week. In fact, the Court hasn't halted at all. The Court has heard 10 cases already since Justice Scalia's passing, and they are continuing to release decisions.

It is a myth that there needs to be an uneven number of Justices for the Supreme Court to actually work. In the past 6 years, 80 percent of the cases were decided 6 to 3 or greater. So it is a small minority of the cases that ever get to a 5-to-4 decision. And we don't know that a 5-to-4 would end up not being a 5-to-3 at this point.

Eight members can operate the Court. In fact, the Constitution doesn't even give a specific number to the Justices. How many Justices are on the Supreme Court has always been a decision of the President and the Congress

together. The first Congress, for example, enacted the Judiciary Act of 1789, which stated the Supreme Court consists of “a chief justice and five associate justices.” If you are counting right, that is six Justices on the early Supreme Court.

The size of the Court varied during the 19th century, with the Court shrinking to 5 Justices for a while, following the passage of the Judiciary Act of 1801, growing to as large as 10 Justices in 1863. Then in 1869, Congress changed the number to nine, where it has remained.

But the Court doesn’t need nine Justices to actually decide a case. In fact, Congress has established the quorum requirements to be only six. If the Court ends in a tie decision, 4 to 4, or in the case of six justices, 3 to 3, the Court will not write an opinion but will affirm the lower court, or it will ask for a reargument of the case.

In other words, the Court is already set up to function and is functioning, and it will continue to function with eight people.

I would say what is really happening is that the Democrats, who implemented the nuclear option while they were leading the Senate and packed all the lower courts, urgently want to be able to pack the Supreme Court as well. That will not happen.

We will also not allow a recess appointment, as has been floated multiple times in the media—the President will just do a recess appointment and go around us. The Senate chooses when the Senate is in recess, not the President. So we can do this: We can remain in continuous session without recess to prevent a recess appointment by this President through the rest of this year. Many of my Republican colleagues and I have already agreed to be in Washington every 3 days for the rest of this year to gavel in this body in pro forma session so this President cannot put in a recess appointment judge.

Ironically enough, this right of the Senate was approved by the Supreme Court just a few years ago by a 9-to-0 ruling when this President tried to force in new members on the National Labor Relations Board through a recess appointment, and this Supreme Court kicked those out, saying the President cannot choose when the Senate is in recess.

Our Nation faces really big issues: accelerating debt, threats from terrorism, a struggling economy, major education, and health care reform issues. This is a moment when the people of the United States should speak about the direction of our Nation. We are still a nation of the people, by the people, for the people. And for the next President and for the next Supreme Court nomination, we should let the people decide.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SULLIVAN). Without objection, it is so ordered.

Mr. VITTER. Mr. President, last month we all learned with great sadness of Justice Antonin Scalia’s passing after nearly 30 years on the Court. He would have turned 80 years old on Friday, March 11.

In recent weeks, foremost on people’s minds as they reflect on Justice Scalia’s legacy and his life is his dedication to the letter of the law, his respect for constitutional and statutory text, his view that the U.S. Constitution is a sacred document which must be read and adhered to.

His decisions and opinions were aimed to follow the Constitution wherever it took him, even if it may not have been to a place where he would agree politically. Justice Scalia not only understood the importance of not legislating from the bench, but he also cared deeply about the lesson being taught by the work of the Court. Through his writings, his opinions, including his dissents, he taught us great lessons.

Now all of this is very important and relevant, ironically, as we consider our role and path forward in the decision to fill his vacancy. Instead, unfortunately, we have seen rhetoric and arguments which fly in the face of that dedication to the text, to the Constitution, to statutory law and rules, and following that letter.

My esteemed Democratic colleagues have taken to the Senate floor, and they have encouraged outside groups to storm committee rooms—all arguing that somehow there is a legislative or constitutional mandate that the Senate have hearings, take a vote now, and not allow the American people to weigh in through the election. They argue that somehow the Senate is constitutionally obligated to hold hearings and vote right now before the election, but as Justice Scalia would surely point out: Read the text. Look at the Constitution. Look at all relevant statutes and rules. That is not the case. It is clear, otherwise. In fact, it is crystal clear. So let’s do that in homage to Justice Scalia.

He wrote many opinions arguing for exactly what I am saying: Read the clear language that is at issue—either the Constitution or a statute or whatever is at issue. He wrote opinions against what before his time was rampant use of so-called legislative history, looking at the history of how a law was passed really to give people fodder to make it up as they go along and reach almost any conclusion and interpretation they want to. Justice Scalia taught us—and he had a real impact on the Court through his decisions—that we need an unwavering commitment to principle and respect to statutory text as written.

As he often said in so many different ways, “Legislative history is irrelevant

when the statutory text is clear.” In one opinion he noted that “if one were to search for an interpretive technique that, on the whole, was more likely to confuse than to clarify, one could hardly find a more promising candidate than legislative history.” He said directly that “our cases have said that legislative history is irrelevant when the statutory text is clear.”

Again, that is a big part of his legacy and very relevant in this discussion about how the Senate should fulfill its duties. Let’s look at the text of the Constitution and any relevant text like our rules below the Constitution.

In the U.S. Constitution, article II, section 2, clause 2 says clearly: The President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by law.”

That is what it says on the issue. That is all it says on the issue. Those words are straightforward, and those words do not mandate a hearing or a vote in any certain timeframe. It is very clear from the Founders and from numerous Court decisions since then that within the constraints of those words, the Senate sets its rules of how to proceed on all Senate matters, including confirmations. So another very important and very clear text that we should read word for word and adhere to are the standing Senate rules. Senate rule XXXI states: “When nominations shall be made by the President of the United States to the Senate, they shall, unless otherwise ordered, be referred to appropriate committees; and the final question on every nomination shall be, ‘Will the Senate advise and consent to this nomination?’ which question shall not be put on the same day on which the nomination is received, nor on the day on which it may be reported by a committee, unless by unanimous consent.”

It only says when the vote cannot be taken. It doesn’t say that a hearing has to happen or a vote has to be taken within a certain amount of time.

Another part of rule XXXI is even more direct on this point: “Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President.”

So this is even more direct and makes crystal clear that there is no requirement of a hearing or a vote on any particular nomination in any particular timeframe during a session. Again, that is very straightforward, very crystal clear, but the Congressional Research Service has a report which validates and confirms the obvious. Upon their review of all of this text, they say:

A committee considering a nomination has four options. It can report the nomination to

the Senate favorably, unfavorably, or without recommendation, or it can choose to take no action.

So they say the obvious from reading the relevant text. Those are the options. There is no requirement for a hearing or for a vote within any certain timeframe.

There are other “authorities”—I will put that in air quotes—which confirm this view, and ironically those authorities I am referring to are Democrats who are taking exactly the opposite view now. When the shoe was on the other foot, time and time again, they said: There is no requirement to move forward on any certain timeframe.

The minority leader, HARRY REID, said: “Nowhere in [the Constitution] does it say the Senate has a duty to give Presidential [nominees] a vote. It says appointments shall be made with the advice and consent of the Senate. That is very different than saying every nominee receives a vote.” That is a direct quote.

In June of 2003, Senator PATRICK LEAHY—he is significant because he is ranking member of the Judiciary Committee—said clearly:

The Constitution divides the appointment power between the president and the Senate. It expects senators to advise the President, not just rubber stamp his choices. It says advise and consent, not nominate and rubber stamp.

Even further back, in June of 1992, then-Chairman of the Judiciary Committee, now-Vice President JOE BIDEN argued for the need to set aside partisanship and work to bring unity forward in the Senate by saying: “President Bush should consider following the practice of a majority of his predecessors and not name a nominee until after the November election is completed.” He said that during a Presidential election year, just like we are in the midst of a Presidential election year right now.

CHUCK SCHUMER, another leader of the Judiciary Committee, said much the same thing in the past, making crystal clear that there is no requirement—in fact, he said 18 months before the expiration of President Bush’s term. So not during his last year, but 18 months before the end of that term that the Senate shouldn’t confirm any Bush nominee, except in extraordinary circumstances.

It is very clear from their own words that there is no obligation to use any certain timeframe to have any absolute committee hearing or vote within a certain period of time. So then the question is, What is the best thing to do for the American people? I firmly believe the best thing to do for the American people is to put the American people in charge, to put them in the lead, to maximize their role, their power, and their vote. That is what the opportunity of a major Presidential election gives us.

Of course, if you have a vacancy early on in the term of a President, you are not going to have another big

election for some time, but that is certainly not the case right now. We are in the midst of a huge election with enormous consequences for the future, and it is very clear the choices—whatever the final two choices may be—would offer very different options in terms of the type of Supreme Court Justice they would appoint.

I think we best serve the American people in almost all cases—certainly in this case—by maximizing their voice, their role, and their power. They often feel absolutely shunned, put to the side, ignored by Congress, by Washington now. We need to put them in charge, and in this Presidential election year we have a unique opportunity to do that. That certainly is what I am committed to doing.

I can tell you, as I travel Louisiana, the huge majority of my fellow citizens whom I have talked to agree with that approach. I just finished doing four townhall meetings in all different parts of the State. In a few weeks I am going to do four more, all different parts of the State. That is not a scientific survey, but nobody came to those townhall meetings who didn’t agree with that path forward. A great majority of calls and emails and letters from my fellow Louisiana citizens on this issue absolutely confirm and support that path forward.

Let’s put the American people in charge. They are crying for a voice. They are crying with frustration over not being listened to by Washington. This is a major decision. Let’s put them in charge. Let’s let them lead in this Presidential election year on this very important issue.

Of course, whoever is elected, the next President will have a big impact on our country. That person will serve for 4, maybe 8 years and make decisions that are enormous on a whole host of issues, but this appointment to the Supreme Court could have an even more lasting impact, could have an impact for decades to come, and it is even more important in that frame of mind, in that viewpoint, to put the American people in charge, to maximize their role and their voice about what direction we should take.

So many Louisianians feel as I do. The Court has strayed from Justice Scalia’s proper philosophy of actually reading the Constitution and reading statutory text and applying it as written. So many Louisianians feel as I do; that they are making it up, in many cases, as they go along; that they are legislating from the bench; that they are using clever techniques, such as looking to legislative history—something Justice Scalia, as I noted, railed against—as ammunition to get to whatever endpoint they desire to get to. That is not the role of any court, certainly not the role of the Supreme Court.

The Supreme Court should apply the Constitution and the law as written, not make it up as they go along, not legislate from the bench, not get to

some political endpoint through clever legal arguments—just as we in understanding our role should read the Constitution, should read the Senate rules and not suggest what is clearly not the case; that somehow there is a mandate to have a hearing, to have a vote in some set period of time.

I urge my colleagues to put the American people in charge. This is a big decision, and I think we will do far better putting them in charge than allowing some insider Washington game to control and manipulate the process without hearing their voice, which we have every opportunity to properly hear through this important election this year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I am so pleased we are making strong progress on the Comprehensive Addiction and Recovery Act, and I hope we will get this bill done within a day. It is very important, especially to States with rural areas, such as the Presiding Officer’s and mine, and I am glad we are starting to make headway.

U.S.-CANADA RELATIONS

Today, Mr. President, I am here to talk about something else, and that is the importance of the U.S. relationship with Canada. Senator CRAPO and I co-chair the Canada-United States Interparliamentary Group and have been working in the trenches on everything from softwood lumber, to the Detroit-Windsor bridge crossing, to issues of intellectual property, to dairy, to beef, and with the arrival of Prime Minister Trudeau, this work has suddenly gotten a little more glamorous. We are excited about that and excited about the Nation’s newfound interest in our important relationship with Canada. In fact, Canada is one of our largest trading partners. There is so much business that goes on between the Presiding Officer’s State and Canada, as well as my State and Canada. Prime Minister Trudeau is bringing a newfound interest in this work.

Many of our two countries’ priorities, which include national security, infrastructure, and energy, align closely. During this visit, I expect our relationship will deepen, and we will hear more about how our two nations will work together on our shared priorities. We hope they will discuss hockey, which is something that is very important to Minnesota and Canada. A number of our hockey players have actually come from Canada, and a number of the Canadian hockey players have come from Minnesota. But we think there are other important topics as well.

First, I will start with our economic relationship—a relationship that supports 9 million U.S. jobs. Canada purchases more goods from America than any other nation. If you asked people what country in the world is the biggest purchaser of U.S. goods, I think they might not predict that the answer is Canada. Canada is the No. 1 buyer of goods produced in 35 out of 50 States, including Minnesota. Last year Canadians bought \$376 billion worth of goods made by American businesses, and it is a two-way street. The United States imports more than \$300 billion in Canadian goods every year.

Over the years, to enhance this relationship, we have taken many important steps to improve the flow of travellers and goods across our common border. In the wake of September 11, we created a U.S. passport card, which is a secure but less expensive and more convenient alternative to a traditional passport. We removed unnecessary double screening of luggage—a bipartisan bill I passed with Senator ROY BLUNT of Missouri—and then expanded the number of preclearance airports, which allows American security personnel to be in those airports. I think we are up to eight now.

We have agreed to build a new bridge connecting Windsor, Ontario, and Detroit, MI. It is a source of great concern. The bridge that is there now is privately owned and has huge lines. It is not a very good situation. So a new bridge is in the works, and we are very excited that our two countries worked on that together.

I especially want to acknowledge Ambassador Doer, the longtime Ambassador from Canada to the United States who worked on that with our two Ambassadors. I also want to acknowledge the newly named Canadian Ambassador, Ambassador David MacNaughton, who will continue the strong diplomatic relations between our countries.

Our national security partnership is also incredibly important. We share the longest border in the world with Canada. Obviously border issues are important, but more than that, Canada, as part of NATO, has worked with us not only in Afghanistan, where they supplied many troops and now provide funding there, but they are also on the frontline with ISIS. They actually have hundreds of trainers working on the frontline there. I would be remiss not to mention them standing up to Russian aggression in Ukraine. Believe it or not, Canada has a major Ukrainian population, and they have been our friend in dealing with Ukraine as well.

Prime Minister Trudeau has also been a leader in welcoming refugees to the country. Right after his election, he showed up at the airport to greet Syrian refugees. It was not just a symbol; they actually brought in 25,000 Syrian refugees during the last year and are expected to take in 10,000 more this year, which is significantly more in total than the United States has

been able to bring in. We know the vetting process is incredibly important, but we do want to thank Canada for taking part in what is a travesty internationally.

They are working on combating Ebola with initiatives such as Power Africa and are also working with us on the climate change numbers.

By the way, our two countries are working together with Mexico. We have formed a very powerful trading block, and we want to encourage that with our standards and other things that we do in terms of building electrical capabilities to allow us, as a North American block, with a new day in North America, which was agreed to among the three Presidents of countries in the last 2 years, to compete in the block in an increasingly competitive global economy, including harmonizing emission standards and doing other work together.

As one of the cochairs of the Canada-United States Interparliamentary Group, we welcome the new Prime Minister to Washington. When I was sworn in as a U.S. Senator in 2013, my friends and colleagues celebrated at the Canadian Embassy. I am the first person I have found to have my swearing-in at the Canadian Embassy, but I chose it to make a point—that we should not forget one of our best trading partners. For years it was the only Embassy draped in banners that read “friends, neighbors, partners, allies.” So many other countries do not acknowledge their friendship with the United States in a way that I think they should. Canada doesn’t hide it. Canada is proud of it. And we welcome the Prime Minister today.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, all postcloture time on amendment No. 3378 is expired.

VOTE ON AMENDMENT NO. 3374, AS MODIFIED

The question occurs on amendment No. 3374, offered by the Senator from Iowa, Mr. GRASSLEY, for the Senator from Indiana, Mr. DONNELLY.

Hearing no further debate, the question is on agreeing to the amendment.

The amendment (No. 3374), as modified, was agreed to.

VOTE ON AMENDMENT NO. 3378, AS AMENDED

The PRESIDING OFFICER. The question occurs on amendment No. 3378, offered by the Senator from Iowa, Mr. GRASSLEY.

Hearing no further debate, the question is on agreeing to the amendment.

The amendment (No. 3378), as amended, was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby

move to bring to a close debate on S. 524, a bill to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

Mitch McConnell, Chuck Grassley, Deb Fischer, John Barrasso, Shelley Moore Capito, Roy Blunt, Johnny Isakson, John Boozman, Mike Crapo, David Vitter, Mike Rounds, Bill Cassidy, James E. Risch, Lindsey Graham, John McCain, Thom Tillis, Orrin G. Hatch.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 524, a bill to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ) and the Senator from Florida (Mr. RUBIO).

Mr. DURBIN. I announce that the Senator from Missouri (Mrs. McCASKILL) and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

The PRESIDING OFFICER (Mr. SASSE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 93, nays 3, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—93

Alexander	Feinstein	Murphy
Ayotte	Fischer	Murray
Baldwin	Flake	Nelson
Barrasso	Franken	Paul
Bennet	Gardner	Perdue
Blumenthal	Gillibrand	Peters
Blunt	Graham	Portman
Booker	Grassley	Reed
Boozman	Hatch	Reid
Boxer	Heinrich	Risch
Brown	Heitkamp	Roberts
Burr	Heller	Rounds
Cantwell	Hirono	Schatz
Capito	Hoeven	Schumer
Cardin	Inhofe	Scott
Carper	Isakson	Sessions
Casey	Johnson	Shaheen
Cassidy	Kaine	Shelby
Coats	King	Stabenow
Cochran	Kirk	Sullivan
Collins	Klobuchar	Tester
Coons	Lankford	Thune
Corker	Leahy	Tillis
Cornyn	Manchin	Toomey
Cotton	McCain	Udall
Crapo	McConnell	Vitter
Daines	Menendez	Warner
Donnelly	Merkley	Warren
Durbin	Mikulski	Whitehouse
Enzi	Moran	Wicker
Ernst	Murkowski	Wyden

NAYS—3

Lee	Markey	Sasse
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NOT VOTING—4

Cruz	Rubio
McCaskill	Sanders

The PRESIDING OFFICER. On this vote, the yeas are 93, the nays are 3.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Utah.

FILLING THE SUPREME COURT VACANCY

Mr. LEE. Mr. President, the opening words to the preamble of the Constitution of the United States are familiar to all of us: "We the People." But what do those words mean?

It was "the People" who established the U.S. Constitution. We established, among other things, the Senate in article I, section 1, of the Constitution. It is for "the People" that my colleagues and I, along with every other public official across these United States, now serve.

And it was on behalf of "the People" that the Constitution established "one supreme Court," consisting of judges appointed "by and with the Advice and Consent of the Senate."

Since the tragic passing of the late Justice Antonin Scalia, there has been a great deal of debate about this particular provision of the Constitution. But there should be no controversy. The text of our founding charter is clear.

The President has full and complete power to nominate individuals to the Supreme Court, and the Senate has full and complete power to reject or confirm the nominee. It is as simple as that. Indeed, the Senate retains complete discretion with respect to whether it should even consider—much less accept or reject—Presidential nominees.

This should not be controversial. It is how virtually every student of the Constitution—and how nearly every Member of Congress—has understood the Senate's power of advice and consent for the past 228 years since the Constitution was ratified.

Senator HARRY REID said in 2005: "Nowhere in that document does it say the Senate has a duty to give presidential nominees a vote."

Senator PAT LEAHY in 2003 acknowledged that the power of "advice and consent" included the power to withhold consent.

Then-Senator JOE BIDEN in 1992 argued from the floor of this Chamber that the Senate should refuse to consider a Supreme Court nominee until the people had spoken in the upcoming Presidential election.

But now, with the Presidential election in full swing, some of my friends on the other side of the aisle maintain that the opposite is true. Some argue instead that the Senate is constitutionally obligated to hold hearings and to vote on any candidate President Obama might eventually nominate to replace Justice Scalia on the Supreme Court. I respectfully dissent.

If this a-textual and a-historical account of the Constitution were accurate—and it is not, but if it were—then prior Senates violated the Constitution when they did not cast up-or-down votes on Supreme Court nominees. Even the Standing Rules of the Senate would be themselves suspect under this theory, contemplating as they do that "[n]ominations neither confirmed nor rejected during the session at which

they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President. . . ."

Neither does the prospect of a temporary eight-member Supreme Court raise any significant constitutional concern or even any significant pragmatic concern for the Supreme Court of the United States.

For instance, during the Supreme Court's 2010-to-2011 term, the Court decided over 30 cases with 8 or fewer Justices participating, almost entirely as a result of recusals arising, as they often do in this circumstance, from Justice Kagan's nomination. Similarly, following the retirement of Justice Powell in 1987, the Court acted on 80 cases with 8 or fewer Justices. In short, the sky does not fall when the Court operates with only eight Justices. As Justice Breyer recently stated, the work of the Court "[f]or the most part . . . will not change."

Now, we have to remember that any Supreme Court nominee made by President Obama would not be seated until weeks before the people choose the next President. Let me explain what I mean by that. Even if the President of the United States were to nominate someone today to serve on the Supreme Court of the United States to replace Justice Scalia, using historical averages, under any calculation of the amount of time that it typically takes to confirm a Supreme Court Justice, that confirmation could not be completed until after the Supreme Court is scheduled to have heard its last oral arguments for this term—the term that began in October of 2015. What does that mean? Well, it means that for the rest of this year, the Justice couldn't participate in cases being argued this year. What that also means is that by the time the Court resumes its work and begins its next session starting in October of this year, we would be just weeks before the next Presidential election. Yet that would be the first moment at which any newly confirmed Justice would start hearing cases being argued before the Court—cases being argued on their merits for consideration before the Court—just weeks before the next Presidential election.

Consider also that since the nomination of Justice Scalia to the Supreme Court in 1986, nearly 30 years ago, it has taken more than 70 days, on average, for the Senate to confirm or reject a nominee after that nominee has been submitted to the Senate for its advice and consent.

So, again, based on that historic average, even if the President nominated somebody today and assuming that nominee were confirmed, that individual would not be seated in time to hear or rule on any of the cases the Court is considering on the merits for its docket this year, and that would, of course, mean that the next time arguments were heard, the first time this particular Justice could participate in

such arguments on the merits before the Court would be just weeks before the Presidential election.

This is a lifetime appointment to the highest Court in the land—a Court that considers not only the interpretation of Federal laws, statutes, and regulations in operation within the Federal Government, but also the very meaning of the Constitution itself. In light of the fact that this is a lifetime appointment to that Court and in light of the fact that the people are about to speak this November to decide who ought to occupy the Oval Office, we should, in respect and deference to the people of this great country, wait until the American people have spoken. They deserve a voice.

In my view, the future of the Supreme Court is now at stake, and the election for our next President is also, of course, well underway already. So it is the people who should determine what kind of Supreme Court they wish to have.

Now, the President is entitled, of course, to discharge his own constitutional authority to nominate. No one can take that from him. That belongs to him. But the Senate is equally entitled to withhold consent and to protect the people's voice. We have to remember that it was considered at the Constitutional Convention the possibility that the Senate would itself have the exclusive power to nominate executive branch officials. It was also suggested that the Senate be given a veto power over the President's appointment prerogative. Neither of those ended up in the Constitution. Instead, what ended up in the Constitution, based, I believe, on the Massachusetts Constitution, was a shared power—one in which the President has the power to nominate but does not have the power to appoint, unless or until such time as the Senate chooses to grant its advice and consent and thereby confirm a nominee put forward by the President.

As James Madison wrote in *The Federalist Papers*, ambition must counteract ambition, and the people should decide.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Ms. WARREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Ms. WARREN. Mr. President, there is a vacancy on the most important Court in America, and the message from Senate Republicans is crystal clear: Forget the Constitution. It doesn't matter who President Obama nominates because the Republicans will allow no votes on that nominee. They will hold no hearings on that nominee.

Their response to one of the most solemn and consequential tasks that our

government performs—the confirmation of a Supreme Court Justice—will be to pretend that that nominee and President Obama himself simply do not exist—cannot see them, cannot hear them.

At the same time they are blocking all possible Supreme Court nominees, Senate Republicans are in a panic because their party seems to be on the verge of nominating one of two extremists for President—two candidates who think nothing of attacking the legitimacy of their political opponents and demeaning millions of Americans, two candidates whose extremism, Republicans worry, will lead their party to defeat in November.

These are not separate issues. They are the same issue. If Republican Senators want to stand up to extremists running for President, they can start right now by standing up to extremists in the Senate. They can start by doing what they were elected to do right here in the Senate. They can start by doing their jobs.

The refusal of the Republican Senators to execute the most basic constitutional duties of their office is shocking, but it is not new. Article II, section 2 of the Constitution says that the President of the United States “shall nominate” judges, executive officials, and Justices to the Supreme Court with the “Advice and Consent of the Senate.” There is no secret clause that says “except when that President is a Democrat,” but for 7 years that is how Republicans in the Senate have acted. Since the first day of the Obama Presidency, Republican Senators have bowed to extremists who have rejected the Obama Presidency and abused the rules of the Senate in an all-out effort to cripple his administration and to paralyze the Federal courts. The Constitution directs Senators to provide advice and consent on the President’s nominee, and every Senator swore an oath to uphold the Constitution. If Senators object to a nominee’s qualifications, they can vote no and they can explain themselves to the American people. President Obama and I are members of the same political party, but I haven’t agreed with every single nomination he has made, and I haven’t been shy about it. That is how advice and consent works. Learn about the nominee and then use your best good-faith judgment about their qualifications, but Republican extremists aren’t voting against individuals based on a good-faith judgment about a specific person. No. They are blocking votes wholesale in order to keep those jobs vacant and undermine the government itself.

For years Republicans have executed a strategy to delay votes on confirming government officials across the board. In 2013, only 1 year into President Obama’s second term, Republican leaders flatly rejected his authority to confirm any judges to fill any of the three open seats on the second highest court in the country, and Democrats had to

change the filibuster rules in order to move those nominees forward. Once Republicans took over the Senate in 2015, judicial confirmations nearly ground to a halt.

It is not just judges. For months after the President won reelection, Republicans held up his nominees to run the Department of Labor and Environmental Protection Agency, largely on the suspicion that those highly qualified individuals might actually help those agencies do their work. For years Republicans held up nominees to the National Labor Relations Board—even Republican nominees—in order to cripple the ability of that 80-year-old agency to resolve disputes between workers and their bosses. For years Republicans held up the President’s choice to run the Consumer Financial Protection Bureau, refusing to confirm anyone unless the President would agree to gut the agency.

Republicans regularly hold up the confirmation of dozens of Ambassadors, undermining our national security and our relationships with other nations. Last year Republicans blocked confirmation of the Attorney General, the highest law enforcement official in this country—blocked her for 166 days—longer than it took the Senate to consider the prior seven Attorneys General combined.

For more than a year the Republican chairman of the Banking Committee hasn’t held a single vote on any of the 16 Presidential nominees sitting on his desk, not even nominees who are critical to maintaining the financial stability of this country or the ones who are responsible for choking off the flow of money to ISIS.

The message couldn’t be clearer. No matter how much it damages the Nation, no matter how much it undermines the courts, no matter whether it cripples the government or lays waste to our Constitution, Senate Republicans do pretty much everything they can to avoid acknowledging the legitimacy of our democratically elected President. For too long the Republicans in the Senate have wanted to have it both ways. They want to feed the ugly lies and nullify the Obama Presidency while also claiming they can govern responsibly. Well, that game is over. Candidates motivated by bigotry and resentment, candidates unable to govern, candidates reflecting the same extremism that has been nursed along for 7 years right here in the U.S. Senate are on the verge of winning the Republican Party’s nomination for President.

Now Republican Senators must make a decision because here is the deal: Extremists may not like it, but Barack Obama won the Presidency in 2008 by 9 million votes. He won reelection in 2012 by 5 million votes. There were no recounts and no hanging chads, no stuffing the ballot box or tampering with voting machines, no intervention by the U.S. Supreme Court. No. President Obama was elected the legitimate

President 7 years ago, and he is the legitimate President right now. So if it is true that some Republican Senators are finally ready to stand up to the extremism that denies the legitimacy of this President and of the Constitution, I say to you: Do your job. Vote for a Supreme Court nominee. Do your job. Vote on district court judges and circuit court judges. Do your job. Vote on Ambassadors. Do your job. Vote on agency leaders and counterterrorism officials. If you want to stop extremism in your party, you can start by showing the American people that you respect the President of the United States and the Constitution enough to do your job right here in the U.S. Senate.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROUNDS). Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, today I rise to address the responsibility of the Senate in its advice and consent role under the Constitution. Of course, the President’s duty is to nominate a Justice when the vacancy exists for a Justice, and that responsibility is very clearly written into our Constitution. The Constitution also very clearly conveys the Senate’s role in providing advice and consent. This is the vision of our founding document. Actually, our Founding Fathers wrestled with exactly how to best construct this nomination and confirmation process. They knew there had to be a way to appoint judges in the judiciary and certainly ambassadors and directors in the executive branch, how to go about that. In those early efforts to craft the Constitution, some argued that this responsibility should be with the Executive, with the President; others argued that, no, no, it is better given to the assembly, to the body. Well, that conversation went back and forth. We can read a little bit about the thinking through Alexander Hamilton’s *The Federalist Papers* 76 because he laid out the conversation as it went back and forth. They recognized that there were certainly advantages to having the President make the appointments.

I quote from Alexander Hamilton’s paper:

The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will under this account feel himself under stronger obligations and more interested to investigate with care the qualities requisite to the stations to be filled.

In short, direct your accountability to one individual who would be responsible for carrying that out.

But they were also concerned about some disadvantages of the Executive

making appointments. Giving absolute power of appointment to the President could lead to unwarranted favoritism, as it was put, or incompetence in those appointed.

Well, then again they thought, how about the assembly? They recognize that you have certainly a rich makeup of views in an assembly and perhaps that could be of value. On the other hand, they also felt that there would be a lot of horse-trading over appointments and that they would just never get the job done, and indeed, as Hamilton noted, "the intrinsic merit of the candidate will be too often left out of sight."

So that was the dilemma, and they came up with a strategy to take the strength of the Executive and the strength of the assembly; specifically, that you would indeed have the power invested in one person, and of course the Executive, in creating nominations for the executive branch, wanted to make sure those—there was an inherent desire to make sure those folks were competent, but there was also still this concern about, what if there was too much favoritism and what if individuals of unfit character were appointed to the bench? So give the Senate the chance to review and provide consent or, as Hamilton wrote, "to prevent the appointment of unfit characters." That is what it boiled down to. So the strength of the Executive and the strength of the Senate combined in order to solve this knotty problem of how you filled the key posts in the judiciary and the key posts in the executive.

All of this led to the exact crafting of article II, section 2, of the Constitution. It referred that the President—"and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court," and so on and so forth. Of course, this isn't, when there is a vacancy, the President can if he or she desires; no, it is shall. This is a responsibility. You have to fill the position. So the President has an obligation under this clause, and we in the Senate have an obligation to follow up with the advice and consent function.

That is where we stand and why this esteemed Chamber has operated now throughout the more than 200-year history in providing that check and balance on the Executive. It is the President's responsibility to nominate, and it is our responsibility to vet those nominees, to examine them, to see if they have the fit, the characteristics of both their own qualifications and their character. That is the basis: qualifications and character. That is the question that we have addressed in this Chamber century after century.

But here we are today with a unique circumstance in which the leadership of this body has said: We are not going to fulfill the responsibility that is given to us under the Constitution. We

are going on strike. We don't want to do our job.

I think the American people are saying the opposite: Senate, do your job. Senate, you were assigned a job in the Constitution. Senators, you signed an oath to abide by that Constitution. You have a responsibility under the vision of our Government to make it work. You have a responsibility to fulfill that job, to do that job.

The Supreme Court is only the latest manifestation of the challenges we have had with nominations for the executive and for the judicial. I hope we can come together and develop a much more rapid system of vetting nominees and, if there is not a major objection, having those at lower levels essentially conveyed quickly into their posts, because this is something that we know will be the case.

We know that over time, there will be Republican administrations and there will be Democratic administrations. We know that under the vision of three co-equal branches of Government, it is not the role of Congress to systematically undermine the other two branches. That was not the design of our Constitution. So we wield a particularly sacred responsibility not to use our partisan inclinations as a tool to try to destroy the Presidency of a different political party or to pack, basically, the courts according to our own philosophy. We are not doing that now. As a body, we are failing our responsibility.

The Constitution says: Do your job. The people of America say: Do your job. The leadership here in the Senate is saying: We refuse to do our job. That is just wrong.

Our Court does play this critical role in making sure that our laws and regulations stay within the bounds of the Constitution. It is not since the Civil War that the Supreme Court has been left with a vacancy of more than a year. The Civil War is a very unique circumstance. Since the 1980s, every person appointed to the Supreme Court has been given a prompt hearing and a vote within 100 days. Since 1975, it has taken on average only 67 days to confirm Supreme Court nominees.

We can look at the list: Justice Kagan, 88 days; Justice Sotomayor, 67 days; Alito, 83; Roberts, 63; Breyer, 74; Ginsburg, 51; Thomas, 99; Souter, 69; and, on through the list, Kennedy, 65; Scalia, who just passed away, 85; and Rehnquist, 89.

You notice that these are nominations by both Democratic Presidents and Republican Presidents. And in each case, the Senate—regardless of the party in control of the Senate—did their job, vetted these nominees, held a vote on them, and proceeded. But now we have more than 317 days still left in this administration, and the leadership of this body is saying that they are not going to do their job for 317 days. They are not going to meet with a nominee, not going to hold a committee meeting on the nominee, not going to report

that to the floor, not going to hold a floor debate—not because of the standards set up in the Constitution, not because of this standard: Is this a fit character? Is he or she fit by qualifications? Is he or she fit by judicial temperament? The standard of unfit character—no, this is a strike, a job strike based solely on partisan politics. This is bringing partisan politics into the very place it should never be—confirmation of our judges not at 100 days but more than 300 days, which is totally out of sync with the history of this Nation, totally out of sync with the responsibility that each of us is assigned to help provide advice and consent.

More than a dozen Supreme Court Justices have been confirmed in the final year of a Presidency. I want to emphasize that because there have been folks here in the Chamber who have said: Well, there should be some special rule. In fact, they even thought there was some special rule that you don't confirm a Supreme Court Justice in the final year of a Presidency.

That simply is not the case. More than a dozen Justices have been confirmed in the final year of a Presidency. Most recently, Justice Kennedy was confirmed in the last year of President Reagan's final term. It was not a Republican-led Senate that did that confirmation. It was a Democrat party-led Senate that did that confirmation because the Democratic Party leadership and Members said: This is not partisanship. This is a responsibility we have, and we are going to execute it.

But, unfortunately, we are hearing a very different story at this moment from the Republican leadership in this body, and it is an embarrassment. It is an embarrassment to this Chamber. It is an embarrassment to our responsibility. I certainly am appealing that it be remedied. There is time to remedy it. The President hasn't put forward his nomination yet. It is time to recognize that perhaps those comments that were put forward in the heat of the moment can be set aside and we can still do our job.

When people elect a President, they don't say to the President: Do your job for 3 years, but you get the last year off. When they elect us, they don't say: Well, do your job for 5 years, but you get the last year off. They certainly don't say: And by the way, after a couple of years, you can take a year off from your constitutional responsibilities. A President is elected for all 4 years. Our responsibility is to provide advice and consent, and it goes on continuously.

In the last 200 years, the Senate has carried out its duty to give a fair and timely hearing and a floor vote to the President's Supreme Court nominees—whether the President was a Democrat or a Republican, whether this body was led by a Democratic majority or a Republican majority. Let's not change that tradition. Let's not fail our responsibility. In fact, let's honor our constitutional responsibility.

I will close by calling on my colleagues: Let's work together to diminish the partisanship and improve the problem-solving. Let's turn down the rhetoric in terms of our back and forth during this campaign year and, certainly, turn it down enough that we can fulfill that core responsibility that provides advice and consent on nominations and certainly on what is probably the most significant and important nomination—that of an individual to the Supreme Court of the United States of America.

To summarize, the Constitution lays out the job before us. The American citizens expect us to do our jobs. Let's do our job.

GENETICALLY MODIFIED FOOD

Mr. President, I am going to shift gears here to discuss a bill that has recently come out of committee and the way that we should consider responding to it. This conversation is all about defending Americans' right to know what is in the food they buy and Americans' right to know what is in the food they feed to their family and they feed to their children. I will also discuss the legislation I am putting forward to attempt to be a bridge between some very different visions on that topic.

Let me start by saying this is all about genetically modified food and the information provided to citizens on the package about that. This often turns into a debate: Well, GMO has done some wonderful things over here. Others say: Well, it has created some problems over here.

I am going to acknowledge that both of those are true. It has done some very positive things, and I will mention some in specific. But it has also created some challenges, some problems, and I will mention some of those. But after we recognize that that is the case, where do we come back to? Here is where we come back to: We should enable the individual in our beautiful Republic to make the decision and not have Big Government make the decision or suppress information. That is what happens in the non-“we the people” world. That is what happens in dictatorships. That is not what should happen here in the United States of America, where individuals have the right to know what is in their food.

Let me go ahead and explain some of the benefits and some of the challenges. Let's start with the example of golden rice. Golden rice was developed by the International Rice Research Institute. It provides greater amounts of vitamin A in the rice to reduce the deficiency that exists in many diets around this planet for that essential vitamin.

That is a pretty positive development. I don't know at this point of any side effects or other things that have been brought to light. Nature is complicated, but for now, let's recognize that providing vitamin A where it is needed is a pretty positive thing.

Let's take a look at carrots. Carrot cells have been transgenically modified

to produce a chemical that treats Gaucher's disease. Gaucher's disease is a metabolic disorder where people lack a specific enzyme which helps rid the body of certain fatty substances. Those fatty substances then accumulate, causing enlarged livers, spleens, bone damage, bruising, and anemia. These transgenic carrots are part of the answer, part of the solution.

Let's turn to sweet potatoes. Researchers are genetically modifying sweet potatoes to withstand multiple viral infections commonly encountered in South Africa, making this a much more successful crop and providing more food to people who need more food. So that is a positive development.

All of this is not a one-sided scientific picture. There are also scientifically documented concerns. We can call them scientifically documented problems that have occurred with transgenic crops.

Let me start by noting that the most common transgenic crops in America are crops that have been modified to be resistant to glyphosate. That is an herbicide. After the introduction of these resistant crops, which means you can put more herbicides or weed killers—you can put a lot more weed killer onto the acreage—you basically knock out the weeds much more easily and less expensively than with other strategies.

What happened? Well, basically, since 1994—early 1990s—several major crops have become almost 100-percent transgenic-glyphosate tolerant. The amount of glyphosate put on the crops has grown from 7.4 million pounds in 1994—let's round it off—to 160 million pounds in 2012, and the number keeps climbing. This is a huge amount of herbicide. Try to picture in your head 160 million pounds of herbicide. Well, it is so effective in killing everything except the GM corn, GM soybeans, and GM sugar beets. It is so effective in killing everything else that very few weeds survive. One of the weeds that doesn't survive, because most don't, is milkweed. Milkweed happens to be the food for the monarch butterfly. As we have seen the enormous increase of glyphosate applied to our fields, we have seen a crashing of the monarch butterfly ecology. It is not the only thing affecting the monarch. Several other things are affecting them as well, but it is—in scientific study after study—a very significant factor.

Let's also take a look at something else; that is, that all of this glyphosate doesn't stay on the fields. When it rains, it gets washed into our waterways. Our waterways are full of things that are affected by our herbicides, and so it has a big impact on the ecology of our streams and rivers. That is a serious scientifically documented issue that we are continuing to learn more about as time passes.

Let's turn to another issue. This is a fascinating story. It is about a pest that bores into the roots of corn. It is called the corn rootworm. The corn was modified so it would have a pes-

ticide in the cells and would kill the rootworm when it bored into the corn, but guess what happened. If you do this on a vast scale, Mother Nature comes along and has a few genetic mutations here and there and suddenly that rootworm starts to propagate with others that are now resistant to this pesticide that has been put into the roots. So now more pesticide has to be added to the corn, and as a result of that we have an opposite outcome than what was expected.

The hope was that this would reduce pesticides, but now you have to put the pesticides back in it, and so now we have the evolution of superbugs. Here we have the adult beetle, and the rootworm is a reference to the larvae stage of this beetle. These are the type of concerns that are raised.

I say all of this just to explain that while there are benefits of transgenic crops, there are also issues that are raised in the natural world. So anyone who takes this floor and says that nobody should be concerned about bio-engineered crops is simply refusing to look at the scientific literature that says, no, there are things we should be concerned about. That is why it comes back to the right of the individual to know what is in their food. They want to know if it is a transgenic crop, and they can look up the details and make their own decision. Why have Big Government say that we are going to make the decision for you? Why have Big Government say that we don't trust you with information and we are not going to allow you to know what is in your food? No. That should be in some dictatorship, not in the United States of America.

Well, we have a big battle now because out of committee last week has come a bill, and this bill is known as the DARK bill. It stands for Deny Americans the Right to Know because Big Ag says that we don't believe in this whole “we the people” model of a republic. No, we like to have a government that makes decisions for people and that denies information to people because we don't trust them, as consumers, to decide what they want to eat. We don't want them to know what they are feeding their children and their family. We want to make the decision for them. Well, 90-plus percent of Americans disagree. They want the information to make the decision on their own. They can find out about the benefits over here. They can find out about the concerns over here. Different foods have different transgenic crops in them. They should get to make the decision and not have Big Government making the decision for them.

This bill, the DARK Act, prohibits counties, cities, and States from any decision to provide information on a package to their citizens about what is in their food regarding transgenic crops.

I got together with the representatives of the food industry and advocates for consumer information. I tried

to find out if there is an overlap so we can craft a bill that will bring these two communities together, and we made some progress on that, and so I will share that with everyone.

Basically, a big concern of the food industry—totally legitimate—is that they don't want 50 different standards in 50 different States or to have a bunch of counties decide to make up their own rules, which would result in hundreds or thousands of rules. If you operate a warehouse, you can't send different cans of soups to grocery stores across the country. No. So that makes sense. They want a 50-State solution. Furthermore, they want to have it acknowledged that there is nothing pejorative about the concept of bioengineering or transgenic. They want to know that people know this is a situation where there are some positive benefits, and I have mentioned some of those positive benefits. They don't want a label on the front of the package because they think it would be scary to consumers, and they want flexibility as to exactly what system they use to alert consumers.

The bill I put forward provides all of those goals for a 50-State solution. There is nothing on the front of the package, nothing pejorative, and provides flexibility for the food industry. It does not go to the final step that much of the food industry wants, which is no unpackaged labeling because then there is no compromise between the two sides.

The consumer side would like to have something mandatory so it is on each package of food. They want it clear so a person can pick up the food or the can or the sack and have it easy to identify on the package. That is the compromise bill I have put forward. It enables the food industry to either put an asterisk on an ingredient that is bioengineered and have it explained below or it enables an industry to put a symbol in parentheses after the ingredient or it enables an industry to just put a symbol on the ingredients panel. In Brazil they use a "t." It is a very simple "t." It is not scary, but for those who want to know, it is identified.

This approach of simplicity—nothing scary, simple access that is easy to see—this is the bulk of what both sides want to accomplish so we can have a 50-State standard.

It has been endorsed by a number of groups. Over the last few days my bill has been endorsed by Campbell's, Stoneyfield, and Nature's Path. It has been endorsed by Amy's Kitchen and Ben & Jerry's and Just Label It.

We can give up the ability of each State to have a separate labeling system if we do this simple symbol or parentheses or asterisk on the ingredients panel so a person who cares can look it up.

I think about it this way. My daughter has always wanted to buy products that don't have highly enriched corn syrup or high fructose corn syrup.

Along the way, she read something and said: I am just not sure that is something I want to buy. So she picks up a package, turns it over, and often the ingredients on the package have tiny print, but she can figure it out. It is the same for this. Enable the consumer who is willing and wants to make the effort to be able to pick up a can—again, it doesn't have to be on the front—and find out what is going on.

This is the world standard. There are 64 other countries, including 28 members of the European Union, Japan, Australia, and Brazil, that all require some type of indication on the ingredients panel or on the package. Do you know who else is in that group? China. China is a dictatorship. China doesn't deny its citizens the right to know. How is it possible that a bill in this Chamber has been introduced to take away the right of Americans to know what is in their food? Even China doesn't do that, and we must not do it either.

I appreciate the folks who have already signed up to sponsor this bill. Senator LEAHY, Senator TESTER, Senator FEINSTEIN, Senator SANDERS, Senator MURPHY, Senator GILLIBRAND, and Senator BLUMENTHAL, thank you. Thank you for standing up for your citizens' right to know. Thank you for standing up for a fair compromise that solves the big problem the food industry is facing with the potential of 50 different States having 50 different standards. Thank you for finding the area of compromise that works on both sides of this equation.

I appreciate the endorsements. I appreciate the sponsors, but what I really appreciate is that we have freedom of speech in our country to be able to carry on this conversation, but how is it consistent to have freedom of speech and then say that we want to ban information from our consumers? How is that consistent? This is like the mob that says that we don't want our citizens to read certain books so we are going to burn them, we are going to ban them—and that is what this DARK Act does. It has been introduced and went through the Agriculture Committee. It bans the ability of States to provide information to their consumers. That is just wrong. Even China doesn't go there, and we should not go there either.

I thank the Presiding Officer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PORTMAN. Mr. President, earlier this afternoon we had a very strong vote here in the U.S. Senate to move forward on the legislation we are currently considering. It is called the Comprehensive Addiction and Recov-

ery Act. It is legislation that is intended to make the Federal Government a better partner with State and local governments, with our nonprofits who are in the trenches around the country, and with all of our States dealing with this now-epidemic level of heroin addiction, prescription drug addiction, and overdoses.

Today, as we are here in the Senate, on average, we will lose over 100 people a day in the United States of America to deaths from overdoses. Frankly, that is just part of the problem, as horrible as that is. So many people are being saved by this miracle drug called naloxone or Narcan. Also, others who may not be overdosing are not working. Their families are broken apart. They are committing crimes to support their addiction. So many Americans are not achieving their God-given purpose because of this addiction issue that is gripping our country. Our legislation is meant to address it in a very direct way.

The debate on the floor that we had over the past week has been very interesting to me. It is the first time in decades that this Congress has taken up this issue in this manner. We have had a very open debate on addiction policy. What does it mean? I think what you heard Members say on both sides of the aisle is that we have learned a lot about addiction over the years and that addiction now is viewed by most as a disease, an illness. Like other illnesses, it needs treatment.

I think that is a very important change in terms of how we address this issue, and the policy before us today on this floor that I hope we will vote on in the next 12 hours or so represents a change in thinking about this, that indeed we want to do everything we can to prevent the addiction in the first place, to keep people out of the funnel of addiction, to have better efforts in education and prevention, and that is in this legislation. But also, once we have people who are addicted, we need to get them into treatment. And for people who are arrested for possession, who are users of drugs, it is better to get them into treatment and recovery than just getting them into jail or prison because we have found that hasn't worked. So the criminal justice system has a role to play here—legalization is not a good idea—but that ought to be, in part, diverting people into treatment that works better for them to be able to get at this problem. Otherwise, folks will continue to see these incredibly high levels of use, addiction, and all the negative consequences that stem from that.

I thank my coauthor of this legislation, Senator SHELDON WHITEHOUSE. He and I have worked together over the past few years on this legislation, bringing in experts from all over the country and getting expertise from our home States. In Ohio, we had a number of roundtable discussions that added a lot of important input to be able to come up with legislation that actually

works, that is actually going to direct funding to evidence-based programs and prevention and treatment and recovery that work.

We talked a lot to our law enforcement community. That is one reason the Fraternal Order of Police supports our legislation. So does the Sheriffs' Association, so do the prosecutors, and so do the attorneys general, because we have actually worked with them to say: How can you be more effective in dealing with this very real problem you have in your community? And if you talk to law enforcement, you talk to firefighters, you talk to emergency medical folks, they will tell you this issue is at the top of their list. They are frustrated by it. They are looking for a solution, and this legislation helps to come up with the solution.

I also thank Senator AYOTTE, Senator KLOBUCHAR, and 42 bipartisan cosponsors for their support of this legislation. It is comprehensive, it is evidence-based, and it is going to make a difference.

Not only has it had a lot of support here in the Senate—and I hope we will see that again in the final vote—but it also has support in the House of Representatives. There was a companion bill at one time that was identical to our legislation, also called CARA, the Comprehensive Addiction and Recovery Act. Ours has changed a little bit through the process, but it is very similar to the House companion bill. There are over 80 cosponsors to that legislation. It is a bipartisan bill on the House side as well.

So this is one of those issues where if we pass it here in the Senate, we have a very good chance of passing it in the House and getting it to the President for his signature so it can begin to make a difference in our communities.

The reason we are here today talking about this is, again, because so many people are suffering. There are 23 million Americans, it is said—23 million Americans—who are in recovery from addiction. Think about that. We are doing this for them, to ensure that they can have successful recoveries, to help them to ensure that they can keep their lives together and not fall back into this struggle of addiction.

With 23 million people recovering, think of the millions who are still struggling. Together, those who are recovering and those who are addicted have begun to stand up and let their voices be heard. That is one of the differences I have seen in this debate, is that the stigma that has been associated with addiction has begun to be removed.

There was a rally here on the Capital Mall several months ago. It was called the Unite to Face Addiction rally. There were people there from all over the country. Thousands of people came to Washington, DC—thousands. And the message from them was, one, pass CARA, this legislation—and I appreciate their help. We wouldn't be here today on the floor talking about this

issue if they hadn't engaged with their elected representatives in the House and the Senate and our leadership to help us get this moving. Second, there message was, look, addiction is a disease and it has to be treated like other illnesses, and we have to have legislation that helps break the stigma associated with drug addiction so that we can address it and we can begin to get people out of the grip of addiction and get our communities and families out of the grip of addiction. This is a cause, and it is one that requires law enforcement and the criminal justice system, but it also requires love and faith and communities coming together. It is one that we can only carry out together—all of us, not as Republicans or Democrats or Independents but as Americans, as fathers and mothers, family members and friends and coworkers who care about those who are facing this great challenge of addiction.

CARA now has the support of over 130 groups around the country. These are criminal justice groups. These are people who are in the trenches every day dealing with treatment and prevention. These are folks who are in public health. These are people who are in law enforcement and understand the importance of this. They have all come together to say: Let's pass this legislation so we can begin to implement this evidence-based program to respond to this epidemic.

It does add prevention and education efforts. It does do a lot to get prescription drugs off the shelves and get the medication out of the hands of our youth. It does allow us to monitor drugs. It authorizes law enforcement task forces to combat heroin and methamphetamine in areas that are particularly hard hit. It expands the availability of the miracle drug we talked about earlier—it doesn't always work, but it has saved a lot of lives—called naloxone or Narcan.

In the criminal justice system, it does identify and treat individuals suffering from substance abuse disorders and expands diversion and education efforts to give those individuals that second chance.

We give special help in this legislation to our veterans. We establish more funds for these veterans treatment courts. I have been to them in Ohio. They are incredible. Yesterday, I talked about the story of one of the veterans who had been in and out of the prison system. Now he not only has his life back together, he has his family back together. He is back in school getting a degree. He is one example of many who got off track because of PTSD, because of an addiction, used self-medication to deal with his PTSD, was in the prison system and is now back out. We are supporting that effort.

We do help women who are postpartum and suffer from addiction. We do help babies who are born addicted. We have this incredible situation where in Ohio we now have a 750-

percent increase in the number of babies who are born with this syndrome—with addiction. They have to be taken through withdrawal. I have gone to these neonatal units with my wife, and we have seen these incredibly compassionate doctors and nurses. What I hear from them is, you have to do something. This legislation takes that important step to the Federal level.

CARA supports recovery programs focused on youth and building communities of recovery. It creates a national task force on recovery to get the experts really engaged to help us to improve ways to address some of the collateral consequences caused by addiction.

Economists will tell us that addiction now costs this country about \$700 billion every year. Think about that. That is lost productivity. That is more expensive health care. If you go to the emergency room in your community to find out what is going on, you will see a lot of people coming in because of addiction. There is the cost of policing and incarceration. Law enforcement tells me that most of the crime being committed in our communities is now being committed because of this issue.

So \$700 billion every single year is a lot of money, no doubt, but addiction costs us something else too: It costs us in dreams that are never fulfilled, in families who are torn apart, in lives that are lost. We don't just measure our success in dollars and cents. We measure it in safer neighborhoods, less crime, in empty jail cells, and by the number of people who never have to struggle with drug abuse in the first place because of more effective prevention and education. We measure it in the moms and dads who beat addictions so they can come back to be with their kids and bring their families back together. We measure it in the families who are not torn apart but instead are healed.

As we move forward to pass this legislation—the Comprehensive Addiction and Recovery Act—our message is a really simple one. To those who struggle with addiction, to those who think they cannot overcome, to those who believe there is no one out there who cares about them or can help them: You are not alone. We are with you. There is hope. I have seen people beat this. I have known people who have beat this. You can beat this.

And we can be a better partner here at the Federal Government to be able to help people overcome this struggle. We need to pass this bill and get it signed into law to begin to make a real difference for the families we represent.

The House has companion legislation also called CARA. They have a big bipartisan group supporting it. After we pass this legislation here—because I am confident we will based on the vote this afternoon—I hope the House will take it up, take up CARA, and get it passed. Let's get it to the President for his signature, and let's truly begin to

deal with this epidemic—it is at crisis levels, it is urgent, and it can't wait—so that we, all of us, can begin to make a real difference for those we represent.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Mr. SCOTT). The Senator from Maryland.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Ms. MIKULSKI. Mr. President, Senator CARDIN of Maryland, my colleague, and I are here on the floor today to ask that two nominations for the Federal bench, the district court, be confirmed. They are the next two judges in line on the Executive Calendar for the Federal district courts.

One is Mr. Waverly D. Crenshaw, Jr., a highly qualified nominee from the State of Tennessee. The other is Ms. Paula Xinis from our own State of Maryland, a brilliant, talented lawyer who also is ready to be confirmed. Both have been approved by the Judiciary Committee. Mr. Crenshaw was approved in July and has been waiting for a vote. Ms. Xinis was approved by the Judiciary Committee in September. So it has been more than 6 months to allow Senators to be able to evaluate the excellent work done by the Judiciary Committee on whether these nominees should be confirmed.

We think it is time that the full Senate did its job and gave these two outstanding candidates for the bench a vote. Therefore, I come to the Senate floor with Senator CARDIN and I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 215 and Calendar No. 307; that the Senate proceed to vote without intervening action or debate on these nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. CORNYN. Mr. President, reserving the right to object, I would just point out to my friends from Maryland, and the senior Senator who has made this consent request asking that we move off of the current legislation—the Comprehensive Addiction and Recovery Act—off of that important legislation into executive session to consider these nominations, that it is the prerogative of the majority leader to set the agenda. If every Senator could come to the floor and cherry-pick different nominations from the calendar and ask consent that we move to executive session and then consider those, it would result in some chaos. For those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I am certainly disappointed by the Senator from Texas objecting to the request of the senior Senator from Maryland, Ms. MIKULSKI.

The request of Senator MIKULSKI is for us to consider two article III judges who are next in line for consideration before the U.S. Senate. They have cleared the committee. They have both been approved by the committee by voice vote, a unanimous vote within the Judiciary Committee.

I know Paula Xinis—the vacancy to be filled in Maryland at University Park. She joined the law firm of Murphy, Falcon & Murphy in Baltimore. She is a senior trial attorney, well qualified to take the seat of the former chief justice, Deborah Chasanow. She was appointed by President Obama in March of 2015. We are now approaching the 1-year anniversary of her appointment—1 year anniversary for a non-controversial, well-qualified appointment to the district court.

Let me just talk a little bit about fairness. I heard what the Senator from Texas said about the majority leader scheduling the votes on the floor of the Senate, but I think my colleagues should be aware of the facts in regard to filling judicial vacancies.

We have completed the confirmation process on 16 article III judges since the beginning of this term of Congress. The comparable number in the last 2 years of a Presidential term where the President was of the Republican Party and the Senate was controlled by the Democrats—just the opposite of what we have today—was the year 2007 and 2008 under President George W. Bush. The Judiciary Committee was chaired by Chairman LEAHY. That year, by March 9, we had cleared and confirmed 40 judicial appointments—40 compared to 16 in this Congress. By the end of the year, we had approved 68 of President Bush's nominees.

Going back to the other time with a Republican President and with a Democratically controlled Senate—President Reagan—in 1987 and 1988, under Chairman BIDEN, by March 9 of the last year, the Senate had confirmed 47 of his nominations, compared to 16 this year, and by the end of the year, we had confirmed 85 nominees, including a Supreme Court Justice, Justice Kennedy.

We have pending right now on the floor of the Senate that have cleared committees—every single one by voice vote unanimously—we have 12 article III judges who are ready for action and 5 other judicial appointments, for a total of 17. But that is not the whole story. We have 25 nominees who are still pending before the Judiciary Committee, including Stephanie Gallagher of Maryland, to fill a vacancy. This is not the only vacancy we have in Maryland. We now have two in Maryland waiting for action by the U.S. Senate.

So there is a matter of fairness here. There is also a matter of respect for

the judicial branch of government in allowing the courts to be able to function.

The district court is where most individuals get their justice. That is the trial court. That is the court where most of our citizens will go for their judicial relief. We have vacancies where appointments have been made that are noncontroversial, well-qualified people, and we can't get a vote on the floor of the U.S. Senate? My friend from Texas tells me this is the prerogative of the majority leader. It is our responsibility to act on these nominations.

Senator MIKULSKI has set up a process in Maryland where we take an interview process to get the very best talent to serve on our courts. I am honored to work with her as we go through the process of finding the very best to serve on the courts. How do you expect to allow their name to come forward when it takes a year to consider a nomination? If you want to get the very best on the courts, we have to act, and we have to be responsible.

Let me just say something. We have to take up these nominations. I appreciate that we always have a lot of work that we have to do. We have time today to get these nominations done. I call on the majority leader and I call on my friends to say: Look, let's get our court vacancies filled. Let's carry out our responsibility and vote on these nominations.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, why am I here today on the floor asking for these two nominations to be confirmed? They are the next two judges in line on the Executive Calendar for our Federal district courts: Waverly Crenshaw, Jr., a highly qualified and talented nominee from the great State of Tennessee; and Paula Xinis, nominated from my State of Maryland. Both Mr. Crenshaw and Ms. Xinis have been waiting for months to have their day and get their vote. Mr. Crenshaw has been waiting since July, Ms. Xinis since September. I think 6 months is enough time to provide our advice and evaluate these nominees. It is time to do our jobs and give these candidates a vote. I urge the Republicans to allow these nominations to move forward.

We are easily on pace to be the least productive Senate in recent history. Last year Republicans confirmed the fewest judges in almost 50 years: a total of 11 in 2015. Since Republicans took over the Senate the number of judicial emergencies has nearly tripled, which leaves courts overworked and understaffed.

Now some Republicans say there is precedent for their obstructionism. Some Republican Senators have tried to fudge their numbers, saying the judges confirmed during our lameduck session at the end of 2014 should count toward their abysmal numbers for 2015. Well, what about those numbers? I didn't realize that's how the Senate

worked; that we take credit for work that others did. Some Republican Senators specifically asked for lameduck passage of their nominees. They didn't want to wait for the next Congress—but they're stalling now, before we are even in lameduck. They are already talking about stopping nominations with 9 months left to do work.

A lack of judges has real consequences for the American people. Due to our constitutional protections, criminal trials must happen with a “speedy and public trial.” What does this mean in our courts? Criminal trials end up prioritized, protecting those charged with crimes, but civil trials are put on hold—sometimes for years—while we wait for judges to have time for them. What does this mean for the American people? Judges spend less time on cases, judges have to encourage cases to settle instead of getting their day in court, judges have to encourage defendants to consider plea deals rather than wait out a lengthy trial process. Justice delayed is justice denied, which is what is happening around our country right now.

For Marylanders to receive their day in court, we need Judge Paula Xinis to be on the bench. I was extremely proud to nominate Paula Xinis to President Obama with Senator CARDIN. She is a brilliant litigator and public servant. When I consider nominees for the Federal bench, I have four criteria: absolute integrity, judicial competence and temperament, a commitment to core constitutional principles, and a history of civic engagement in Maryland. Ms. Xinis exceeds these criteria. She has dedicated her career to the rule of law. The persistence and character she has shown in advocating for her clients and in her activities in the community make her truly an outstanding nominee. She has a deep respect for the law and what it means to every American. She will ensure that everyone who comes before her truly feels that they have been heard and have received equal justice under the law.

It is absolutely critical that we have judges in our courts to make sure that the judiciary is strong, independent, and that all Americans get their days in court. The President has made dozens upon dozens of judicial nominations. Now the Senate must do its job. Enough time has passed on these two nominees. It is time to have our say. I do not take this duty lightly, but I will do my job. I carefully evaluate nominees and render an independent judgment based on my commitment to core constitutional principles. These candidates deserve timely hearings and timely votes. We have had the hearings. We have had plenty of time to evaluate their merits. Now is the time to vote.

Mr. President, I would like to compliment once again my very able colleague from Maryland for his statement, in which he laid out facts and he laid out the historic precedent, and I want to associate myself with those remarks.

I also want to add that I am really frustrated. I am so frustrated that, No. 1, President Obama doesn't get to be President Obama. His job as President is to nominate competent people for an independent branch of government, the Federal judiciary. He did his job. Then it came to the Senate. Really, we thank the Judiciary Committee because they did hold a hearing and did their due diligence to examine the worthiness of whether these nominees should be brought to the Senate. Do they have the judicial temperament? Do they have the judicial experience? Are they of sound character to truly be independent and render impartial justice, which our Constitution mandates? The Judiciary Committee said yes.

It comes to the Senate on something called the Executive Calendar. That is Senate-speak for the nominating calendar. It means they are on the calendar, waiting their turn to have a vote, but this is just a slowdown.

We don't want to be in a showdown here. I didn't bring this up with Senator CARDIN to disrupt consideration of the opioid bill. We have a terrible problem in Maryland with opioids and heroin. We are for this bill. We are for bipartisan action, but we are driven to taking action, asking for unanimous consent because we are not getting action.

I would have yielded to a compromise if the gentleman from Texas, himself a member at one time of the Texas Supreme Court, had said: How about Mr. Crenshaw first and Ms. Xinis after the break that will be coming up? You know, we are like college kids; we get spring break. Well, we would agree to that. All we are looking for is for Mr. Crenshaw, who was on the calendar before Ms. Xinis, to go first.

We are not pushing, but we are persistent. All we want is a time certain when we could get a vote on Ms. Xinis. We are now in the business of discouraging people from coming into public service. They are willing to put their career on hold and their life on examination to be able to serve on the Federal bench or other nominations. She did it. Our nominee did it. She is in a law firm. Her career is on hold.

We also have Ms. Stephanie Gallagher, who is a Federal magistrate judge, waiting for a hearing. What are we doing here? People are finally going to say: I don't want the hassle. I don't want the harassment. I don't want to go through all this just to wait, wait, wait, wait.

The Senate needs to move in an orderly way. When a nominee has been moved through the process, nominated by the President, gone through the due diligence of the Judiciary Committee, and is waiting, I think we ought to do it. I think we ought to take a couple of days and just vote on these nominations.

I believe our courts are overwhelmed. There are backlogs in the courts. There are people waiting for their ability to have a trial. We need good judges. We

need to be able to make sure that the people are willing to serve and they have the credentials, the judicial temperament, and the character to serve. We need to be able to at least give them a vote. Now, if you don't like the Obama nominees, vote them down. Vote them down, but don't slow down the process.

We have a constitutionally mandated process. Let's follow it. Let's do our job. We have Mr. Crenshaw and Ms. Xinis. We are happy to have Mr. Crenshaw go first, but we sure would like a date for Ms. Xinis.

We call out to our colleagues to give us a date, give us a vote. Give it to us now.

Mr. CARDIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

OMNIBUS AND DEFENSE AUTHORIZATION BILL

Mr. MCCAIN. Mr. President, last night we saw another unusual election result. We see a “businessman” now in a very significant lead for the nomination of the Republican Party, the party of Abraham Lincoln and Ronald Reagan.

As I watched the postmortems last night and this morning, we see again that many of those who voted cite as one of their primary—if not the primary—reasons distaste, anger, and frustration about Washington, DC, specifically the Congress of the United States, as well as the President. They believe they need somebody who is an outsider, someone who is not “of the establishment.” I guess that applies to anyone who is in elected office.

Some of us have been surprised. Certainly no one predicted these outcomes, not only on the Republican side but on the Democratic side. We saw our colleague from Vermont engineer quite a stunning upset in the State of Michigan last night. But he also—even though a Member of the Senate, Senator SANDERS clearly is speaking in opposition to the machine, the business as usual in Washington.

Sometimes we ask ourselves why the American people give us such a low approval rating. I see polls show that the approval rating of Congress is 12 percent, 13 percent, 14 percent, sometimes as high as 15 percent. I would inform and remind my colleagues that it wasn't always like that. We didn't always have such a low approval rating in the Congress by the American people.

I think it is worthy of note that in the last year since regaining the majority, we have enacted some legislation that I think we could be proud to go back and talk to our constituents about, whether it be education reform, where we did away with common core, or whether it be a highway bill that was much needed to provide infrastructure for our States, counties, and towns. We passed a budget. We passed a defense authorization bill that has some of the most significant reforms in history. But the fact is, those numbers haven't changed, and they haven't changed sometimes for good reason.

That is why I come to the floor today, because I am ashamed and embarrassed, as a representative of the people of my State, to talk about billions of dollars of unnecessary wasteful spending of their taxpayer dollars, and it happened on the Omnibus appropriations bill—omnibus. A lot of my constituents don't know what "omnibus" means. What it means is, we are required to take up 13 appropriations bills. We don't do it—and I would put the responsibility for that on the other side of the aisle, but it doesn't matter, really, because we end up, at the end of the year, with a massive, hundreds of billions of dollars bill that is about this high, that none of us have seen or read and there is no amendment to it, and we have approximately 48 to 72 hours in which to vote yes or no, with the option being the government not continuing to function. That is not the way to do business. That doesn't inspire any confidence in us on the part of the American people, and it is disgraceful.

So the omnibus, again, was passed with votes from both sides, actually, but the fact is that our responsibility was to take up these bills one by one, to examine them, to have amendments, and to have the Congress—in this case, the Senate—work its will. We didn't do that.

Here it was. We walked in, and here was this bill—not that size but this size—that no one had read, no one had a chance to peruse, and even if we had, we couldn't do anything about it because the bill was not amendable because if we amend it, then it bounces back to the other side of the Capitol, and we run out of time, and the government shuts down. That is the wrong way to do business.

One of the major reasons for what happened is it is open to incredible abuse. I came to the floor today to talk about the abuse of the most sacred responsibility we have, which is the defense of this Nation.

I am proud to be chairman of the Senate Armed Services Committee, a post I aspired to for many years. We work hard on the Defense authorization bill. We work hard in the Senate Armed Services Committee. We work on a bipartisan basis. We have hearings, we examine the issues, and we examine the programs. We are talking about, again, hundreds of billions of

dollars, of taxpayers' dollars, whether it be pay and benefits for the men and women who are serving or whether it be the equipment they need or many of the policies that govern the defense of this Nation. And I am proud of the work we do.

So after producing a bill with an overwhelming majority vote—90-some votes—with the authorization for all of this to do with our Nation's defense, the Appropriations Committee decides to overrule what we have authorized, in violation not only of the way the Senate is supposed to function but in violation of a resolution adopted by the Republican conference, which I will read:

Earmark Moratorium

Resolved, that it is the policy of the Republican Conference that no Member shall request a congressionally directed spending item, limited tax benefit, or limited tariff benefit, as such items are used. . . .

Et cetera.

So what was in this omnibus bill? Let me give you the best example: \$225 million for a ship called a joint high-speed vessel, for a ship the Navy did not want. No one asked for this.

We had hearings in the Armed Services Committee on shipbuilding. We examined all of the proposals. Some of them we didn't accept. Others we did. Others, through votes in the committee, debate, and discussion, came up with our shipbuilding authorization.

So what was done in this Omnibus appropriations bill by the Appropriations Committee? For the second year in a row, \$225 million the Navy did not request and did not need.

By the way, my friends, I would not take too much time in the Senate, but building a ship is just the beginning of the expense. You have to man it, you have to put the ammunition on it, you have to put the equipment on it, and you have to operate it for as long as 30 years, and the Navy did not want it. The Navy has lots of unmet military requirements. So what was put in there and why? Because, frankly—and I use these words without reservation—it is made in Mobile, AL. It is made in Mobile, AL. It is blatant. It is blatant. And then, of course, there were so many other items in it.

It is like any other evil. First you condemn things. Then you condone them. Then you embrace them. There is no better example of that than the so-called money for "medical research." In fact, years ago somebody decided: Hey, we will spend some money for medical research on some of the illnesses that affect the men and women in the military. I don't take exception to that. But it grew and grew and grew and grew and grew.

Now, in this bill, \$1.2 billion extra—not million but billion dollars—is asked for. Let me give examples: \$120 million for breast cancer, \$12 million for lung cancer, \$6 million for multiple sclerosis, \$20 million for ovarian cancer, \$7.5 million for epilepsy, \$12.9 million for HIV/AIDS. My friends, all of

those are worthy causes. All of those should probably be funded.

We should do all those things, but not on the Defense bill. It was not authorized and was jammed in for the Willy Sutton syndrome. The Willy Sutton syndrome is about the famous bank robber who, when asked why he robbed banks, said: That is where the money is. Well, the defense appropriations is where the money is.

So here we have, over the last 23 years, as it has grown and grown and grown, just \$2.4 billion of the \$10 billion spent on these congressionally directed medical research programs being relevant to the military. In other words, \$7 billion went to research things such as osteoporosis and mad cow disease instead of training, equipment, and care for our troops and their families.

We do not have enough money to care for the men and women in the military and take care of their families and take care of their medical needs. We don't have enough money for that as a result of sequestration. So what did they do? They put in \$1.2 billion more in medical research.

There are a few other examples. There is an additional \$7 million in funding for a machine gun. These guns are made with a 500-percent increase. There is \$750 million for a National Guard and Reserve equipment fund and \$600 million in additional funding for DOD's science and technology budget.

This is very interesting, my friends, this science and technology budget. Here is what happens. They put out \$600 million, and it is supposed to be for "scientific and technology research." But it doesn't say for what specific item. So what happens is the members of the Appropriations Committee then write to the Department of Defense and tell them to spend certain money on certain projects. That is the way of getting around the letter of the earmark ban if not the spirit of it.

Then, of course, there is the Russian rocket. Today we are having to use for space launches Russian rocket engines. The company that makes these Russian rocket engines happens to be run by cronies of Vladimir Putin. In fact, two of the cronies of Vladimir Putin are such thugs and gangsters that they have been on our sanctions list. We have sanctioned them. Yet our friends on the Appropriations Committee, again, with ULA—the people who are buying these rocket engines—are based in Alabama and, of course, headquartered in Chicago, IL. The engines, as I mentioned, are manufactured by this Russian company that is controlled by a guy name Chemezov and a guy named Rogozin, who have been sanctioned. Yet we are sending tens of millions of dollars to them.

What we did was we restricted the cost and encouraged the competition, and we had hearings on it. It was a big issue. We had votes in the committee on it, we discussed it and we debated it. And so what did the appropriators do? They put a provision into this bill reversing what we authorizers did. That

is in complete violation of the rules of the Republican conference.

So I have talked very often with our twelve freshmen. I can't be more proud of what these freshmen Senators have brought to this conference. They have brought enthusiasm, they have brought knowledge, they have brought youth, they have brought military experience—people like Senator ERNST and Senator COTTON and others who bring their military experience. I am so proud to have many of them serving on the Armed Services Committee. I have asked them to get together and condemn this. I campaigned for almost all of them. They promised the people of their States, as I promised the people of my State, that I wouldn't allow this waste of billions of their tax dollars, that I would fight against it. So I am asking our freshmen Senators to join together—and I hope they will because I have had conversations with them—to reject this, and, if we go into another appropriations omnibus, that they will not allow this to happen.

Why did I focus my comments on defense? It is for two reasons. No. 1 is obvious. I am chairman of the Committee on Armed Services. So I take strong exception when the men and women who are serving in the military are having to leave the military involuntarily because we don't have enough money, yet they are wasting billions—billions—of taxpayer dollars. Second of all, it is not right. It is not right. And thirdly, we authorize—we authorize—and our bill is passed by the Senate and the House, for 53 straight years, and signed by the President of the United States.

This bill is important to defend the Nation. When our careful deliberations, our votes, our hearings, our debates day after day on the floor of the Senate as we consider the authorization bill is then overturned—overturned—and pork barrel projects such as a \$225 million extra vessel the Navy neither needs nor wants are added to it, then, my friends, do not be surprised when we have an approval rating of 12 or 13 or 14 percent.

The American people are smart. Our constituents are smart. When they see billions of dollars wasted in this fashion, it is no wonder we receive their condemnation and their sarcasm and their disapproval.

So I am asking my freshmen colleagues to take the lead—to take the lead because they are the ones who are closest to the people—and to help me reject this corrupt process. And it is corrupt.

I want to also assure all of my colleagues that if they try this again—if they try this again—I will do everything in my power—everything in my power—to make sure it is reversed or that it never happens to start with. We owe the American people much better than the process I just described.

Mr. President, I note the presence of the senior Senator from Texas, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I thank my friend, the senior Senator from Arizona, for his great work over the years, and particularly now in the Committee on Armed Services, which he chairs. He has been tenacious in his attempt to make sure that no dollars are inadvertently or unknowingly wasted, especially when it comes to the Pentagon.

I, for one, believe this is the No. 1 priority of our country. I know he shares that view. But it is pretty hard to make the argument that we ought to continue to give more money to the Pentagon if the money is not being used efficiently, either because of their internal administrative problems or for some other reason.

I know, because I happened to be at the Pentagon this morning, that many of our military chiefs are concerned that the things that are being put in appropriations bills are not things they actually want or need and that there are other priorities. The best way to get those vetted is through the Senate Committee on Armed Services and working with the Appropriations Committee to make sure the money is being used as efficiently as possible and not wasted—certainly not on things the military doesn't want or doesn't need.

So I thank my colleague for his continued leadership.

Mr. President, I wanted to talk about a few topics here. No. 1 is the Comprehensive Addiction and Recovery Act, the legislation we have been working on now for 2 weeks. Anybody who has been listening understands the importance of this legislation, which will help stem the tide of the massive epidemic of opioid prescription drug abuse and heroin abuse that continues to claim lives across our country.

This bill is actually a good example of how the Senate can work in a bipartisan fashion to advance good policies that positively impact the lives of ordinary American citizens. I know most people in this polarized environment are not aware of this bipartisan work we have been able to do over this year and last year, but we have actually done a number of good things. Some, if you told them, they might not even believe it, but to the people who are open to the facts, I think this is another good example. Of course, in this instance, it has been the result of the strong leadership of the junior Senator from New Hampshire, Ms. AYOTTE; Senator PORTMAN of Ohio; the chairman of the Judiciary Committee, the senior Senator from Iowa, Mr. CHUCK GRASSLEY; along with our Democratic counterparts, people like Senator WHITEHOUSE.

I am hopeful this legislation will contain an amendment I offered last week to help those who struggle with both substance abuse and mental illness. It is estimated that more than 10 million Americans suffer from both addiction and mental health disorders. These are

called co-occurring disorders. It is a fact that many people who don't otherwise get treatment for their mental health problems try to self-medicate, making their lives even more complicated and worse, and that is what this amendment is designed to address.

Many mental health and substance abuse services, like specialty courts, have operated on separate tracks, and they only treat one part of the problem. This amendment really isn't all that earth-shaking. All it would do is make the commonsense link between mental health and substance abuse, something that we direct our existing criminal justice programs to apply to these coexisting disorders as well. That way people who struggle with both addiction and mental health problems can have both of those problems addressed using the money we are already appropriating and already spending in grants to local law enforcement and medical providers.

It would also expand substance abuse and transitional services to help those suffering from co-occurring disorders to receive the treatment they need to recover. So I look forward to voting on this legislation and getting it passed soon.

I would note that we are having a few bumps along the way, in terms of our Democratic friends allowing votes on amendments. There are apparently about 25 different amendments that have been negotiated between the Republicans and Democrats, but I am told our Democratic friends are objecting to any amendments by Senators who happen to be running for election in 2016.

Now, the Democratic leader, in a fit of candor the other day, said they were going to object to an amendment authored by the Senator from Wisconsin, Mr. JOHNSON, because he is running for election. Well, I would ask them to back off of that sort of political hardball and to let us get our work done.

It doesn't help when they object to noncontroversial amendments or they take certain amendments hostage because they do not want somebody to score points by getting something done. I mean that is why we are sent here; it is to get things done for our constituents.

Regarding the amendment I mentioned just a moment ago, that apparently is one of those being held hostage. I would like to share a letter from the National Alliance on Mental Illness, the American Correctional Association, and the National Association of Police Organizations that supports the amendment I just talked about. If the Democratic leadership will not listen to me, maybe they will listen to them. I hope they will listen to the voices of the families who suffer from mental illness and to law enforcement officials.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 2, 2016.

Hon. JOHN CORNYN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CORNYN, On behalf of the undersigned mental health, substance abuse and criminal justice organizations, we are writing to express our support of the Mental Health and Substance Abuse Act amendments to S. 524, the Comprehensive Addictions and Recovery Act (CARA).

Approximately 65% of persons incarcerated in jails and prisons across the United States have substance use disorders. Many of these individuals have co-occurring mental illnesses such as depression, post-traumatic stress disorder, or schizophrenia.

It is further estimated that 2 million people with serious mental illness are admitted to jails across the U.S. each year. Twenty percent of all inmates in state and federal prisons, approximately 314,000 individuals, have serious mental illness. Many of these individuals also have drug or alcohol use problems.

Historically, mental health and substance abuse services have been operated separately, and coordination in addressing the needs of people with co-occurring mental illness and substance use disorders has proven challenging. This has been true as well with specialty courts established to address the unique needs of non-violent offenders with substance use disorders (drug courts) or mental illness (mental health courts). Drug courts have frequently not been equipped to address the needs of people with mental illness and mental health courts have frequently not been equipped to address the needs of people with substance use disorders.

The provisions included in the Mental Health and Substance Abuse Amendments would be helpful in addressing these problems.

Section 802 would add "mental health treatment and transitional services for those with mental illnesses or with co-occurring disorders" among those prioritized for assistance when transitioning out of criminal justice systems.

Section 803 would include "training for drug court personnel . . . on identifying and addressing co-occurring substance abuse and mental health problems" to federal criminal justice training priorities.

Section 804 would add grants for developing and implementing specialized residential substance abuse treatment programs that "provide appropriate treatment to inmates with co-occurring mental health and substance abuse disorders or challenges."

Inclusion of these provisions in CARA would be very helpful in fostering positive treatment outcomes and in reducing recidivism among offenders with mental illness and substance use disorders.

Senator Cornyn, we greatly appreciate your strong leadership on these issues and stand ready to help in any way we can to move them forward.

Please contact Ron Honberg with NAMI with any questions or if we can provide further support.

Sincerely,

National Alliance on Mental Illness (NAMI), American Correctional Association, National Association of Police Organizations, TASC, Inc. (Treatment Alternatives for Safe Communities—Illinois), The National Alliance to Advance Adolescent Health, American Orthopsychiatric Association.

CALLING FOR APPOINTMENT OF A SPECIAL COUNSEL

Mr. CORNYN. Mr. President, separately, earlier this morning I joined my

colleagues on the Senate Judiciary Committee to hear testimony from the Attorney General of the United States, Loretta Lynch.

As a former attorney general of my State, I have always taken a great interest in our system of justice at the State level and now certainly at the national level, and I have tried to do everything I can to help strengthen the rule of law and help keep the American people safe, and that includes transparent and fair investigations.

I spent a little bit of time asking the Attorney General this morning about her Department's investigation into the former Secretary of State, Hillary Clinton, and her use of a private email server during her tenure. I have talked many times on the floor about my concerns surrounding her use of an unsecured email server. The former Secretary did refuse to use the government server and decided to basically play by her own rules, setting up a server at her home in New York. But the fact is, this sort of reckless conduct put our country at great risk. Several experts from the intelligence community have outlined how her unsecured server left her emails—some highly classified—vulnerable to hacking in cyber attacks. So this is a very serious matter.

Last fall, about 6 months ago, I asked the Attorney General to appoint a special counsel to fairly and fully conduct an investigation. That is because Secretary Clinton is not just a random citizen or former government employee; her case is awfully high-profile. As a result, I think there are many questioning whether she is being treated in exactly the same way as any other citizen would be treated under similar circumstances or whether she is getting some sort of preferential treatment. Because the Attorney General is a political appointee of the President of the United States and given Ms. Clinton's high profile, there are real conflicts of interest and real concerns about politics ahead of justice. Those could be addressed and mitigated by providing a special counsel, as the law provides, to provide some measure of independence from the Attorney General so the public can have confidence that this case is being treated just like every other case and not with some sort of political favoritism based on a conflict of interest.

This morning, I questioned the Attorney General about recent reports that the Department has granted immunity to the staffer who set up Secretary Clinton's private server.

So anybody listening understands, the only reason immunity would be granted in a criminal investigation is if somebody invokes their Fifth Amendment rights against self-incrimination. But if given immunity, then that individual must cooperate with law enforcement authorities and cannot refuse to answer questions because they no longer have any likelihood or any chance of being convicted

of that crime, having been granted immunity.

This does indicate that this investigation has taken on a new level of seriousness, and I suspect the FBI continues to be hard at work trying to get to the bottom of this, as I would expect them to do. I hope this indicates that the Department of Justice is treating this case with the great care and gravity it requires. They are integral to this grant of immunity because the FBI can't do this on their own, and it takes the prosecutors of the Department of Justice to agree to a grant of immunity as part of an investigation.

I still believe the American people deserve an independent investigation, and I will continue to press for the appointment of a special counsel to that end.

MENTAL HEALTH REFORM LEGISLATION

Finally, Mr. President, I want to address another issue I questioned the Attorney General about, and that is about needed reforms to our mental health system. I believe I repeated to her today—I have repeated this story so many times, I sometimes forget when I have said it before. But I recently had a chance to meet with a number of major county sheriffs, and somebody asked me: Would you like to meet the largest mental health provider in America?

I said: Well, sure.

He said: Well, he is over here. It is the sheriff of Los Angeles County.

So the fact is, many people incarcerated in our jails are suffering from mental illness, and they may have committed petty crimes, such as trespassing and the like, but they are not getting their condition treated as long as they are warehoused in jails. Many communities, such as my hometown of San Antonio, TX, have created a model of how to divert people from jail to get their mental health issues treated and at the same time make sure we don't continue this turnstile of people coming in and out of our jails when their underlying mental illness problems are not being treated.

I asked her to take a look at a bill I introduced, the Mental Health and Safe Communities Act, which is designed to help communities and families who are struggling to help their loved ones who are mentally ill. Many families don't have access to adequate treatment or lack the resources to comply with doctors' orders.

The fact is, back in the nineties, back when a major policy change was made in America and people were essentially turned out of institutions where the mentally ill were treated, there wasn't any followup to make sure there was some sort of safety net or some follow-on treatment to make sure their needs were taken care of.

Today, any of us who have walked down the street in a major American city know we have a lot of homeless people living on our streets who are essentially suffering from some form or another of mental illness, and their

needs are not being addressed. Some of them, perhaps because they abused alcohol or other drugs in order to try to medicate or take care of their problems on their own, end up committing crimes of one type or another, not necessarily what I would call a serious crime but serious enough to get them arrested and put in jail.

I am hopeful that we will take this opportunity, as we are looking at our criminal justice system at large, along with prison reform and legislation that passed out of the Senate Judiciary Committee—which I hope will soon come to the floor of the Senate—to deal with issues like this confluence of mental health and criminal justice in a way that is more enlightened, in a way that is cheaper, and in a way that is more humane and more efficient than simply warehousing people who are mentally ill in our criminal justice system.

We can do better, and I am hopeful that models like those in Bexar County, TX, where mentally ill persons are able to find programs that actually help them solve their underlying problem—those kinds of models are helpful to the rest of the country and to us as we try to craft means for our communities to better care for those suffering from mental illness.

I look forward to moving this legislation soon. The chairman of the Health, Education, Labor and Pensions Committee, Senator ALEXANDER, tells me he has been working with Senator MURRAY, his ranking member, along with Senator CASSIDY and Senator MURPHY, on another piece of legislation that they are proposing on mental health. My hope is that the group of us who are interested in this issue can cobble together a consensus piece of legislation which the majority leader could then bring to the floor of the Senate to let us do some additional important bipartisan work to help address this problem.

I don't see any Senator wishing to speak, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOOMEY). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. FLAKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBA

Mr. FLAKE. Mr. President, after decades of isolation, we are seeing a measured shift in our policy toward Cuba. We have resumed diplomatic relations, expanded travel opportunities, lifted caps on financial assistance between families, and eased trade restrictions.

I congratulate the administration for spearheading these changes. It took courage to embark on this path. These policy changes are supported by the vast majority of Cuban Americans. They are applauded by sector after sector of the U.S. business community,

and they are welcomed by Americans at large, but still it took someone to lead and President Obama did. I applaud him and his administration for doing so.

Make no mistake, conditions are improving for the Cuban people because of these changes. There are some who do not fully appreciate the meaningfulness of this opening to Cuba. They maintain that we have somehow offered concessions to the Cuban Government without benefit to the United States or to the Cuban people. Some contend that we have moved prematurely when human rights issues remain unresolved in Cuba.

To be clear, human rights abuses persist in Cuba. We all seek to remedy these abuses. Yet extending 50 years as the Cuban Government's convenient scapegoat for the failure of socialism is unlikely to yield gains in human rights in the future any more than our policies have done in the past. Instead, this opening to Cuba takes full advantage of the opportunities presented by the failures of socialism. Recognizing the inherent right of Americans to travel to Cuba isn't a concession to dictators. It is an expression of freedom. It is Americans who are penalized by our travel ban, not the Cuban Government.

During my first visit to Cuba in 2001, I told the Cuban Foreign Minister in a meeting in Havana that I was attempting to lift the U.S. travel ban. I added, if the Cuban Government didn't improve its human rights effort, I would seek to lift the entire trade embargo. It was taken as an attempt at humor, of course, but for me it was no joke. I have always believed that denying Americans the ability to travel to and trade with Cuba has done more to extend dictatorial rule on that island than any other policy we could have adopted.

For far too long U.S. administrations, both Republican and Democratic, have insisted that U.S. measures, such as ending the travel ban or easing the trade embargo, must be met by moves by the Cuban Government to improve the human rights condition of the citizenry. I understand this instinct, but I will submit that ending the travel ban and easing the trade embargo, even when done unilaterally, leads to better human rights conditions in Cuba.

Milton Friedman wrote that economic freedom is "an indispensable means toward the achievement of political freedom." Far from being concessions to dictators, changes in our policy toward Cuba are reinforcing and advancing opportunities for Cubans in the private sector. Citizens who are totally dependent on government for their livelihood are subject to the whims of all-powerful leaders in a way that those who are economically independent are not.

In a very real sense in Cuba, the economic agenda is the human rights agenda. Recognizing its precarious economic position in recent years, the

cash-strapped Castro regime has laid off thousands of government workers and expanded legal opportunities in the private sector. This has given way to a dramatic rise in the number of entrepreneurs on the island who are running restaurants, bed and breakfasts, taxi services, barbershops, beauty salons, and much more. In fact, it is estimated that as many as one-third of Cuba's 5 million workers are now operating in Cuba's private sector. This exponential expansion of Cuba's entrepreneurial class would not have happened were it not for U.S. policy changes in 2009 that has led to an explosion of travel and remittances among Cuban Americans. Some suggest that remittances to the island are responsible for 70 to 80 percent of the capital used in small businesses in Cuba.

Recent changes to U.S. regulations allowing for additional travel and remittances have further expedited the expansion of the private sector in Cuba. Additional regulatory changes, such as allowing the so-called people-to-people exchanges to be conducted on an individual as opposed to a group basis, would propel this movement even further. Again, this entrepreneurial expansion in Cuba has not only given scores of Cubans a better quality of life, it has lessened their dependence on the Cuban Government in a way that has improved their human rights condition.

The recent bilateral air service agreement also represents a key piece to ensuring the continued travel of Americans to the island. This agreement will, for the first time in 50 years, provide scheduled air service between the United States and Cuba. Frequent and regular travel between the two countries will continue to open economic ties, and it will lead to private sector economic opportunities on the island.

I should note that the administration has done just about all that its authority permits to affect change on the island. In the coming months, it will be up to Congress to take the next steps.

I hope that we—particularly those of us on this side of the aisle who believe so strongly in the value of free markets and free enterprise—will remember these principles as we promote democracy and human rights in Cuba.

Margaret Thatcher famously said: "There can be no liberty unless there is economic liberty." This statement is as true in Cuba as it is anywhere in the world. It is my hope that this principle will guide our actions as we endeavor to promote freedom and liberty in Cuba.

I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, I am here this afternoon on the floor to join with colleagues as we discuss the Comprehensive Addiction and Recovery Act, CARA. I would suggest that from the perspective of families across the country, many would look at this and say this is probably one of the more important pieces of legislation that this Senate could be taking up this year.

If we think about this crisis, this epidemic that we are seeing across the country with opioid addiction, it is probably one of the most pressing public health issues facing American families all across the country. As we have heard from colleagues, this is not just one single State's issue. This is not just one region of the country. This is across all 50 States. I always like to think that in Alaska, because we are so far away, we are so remote, perhaps we might be insulated from some of the negative aspects of this modern society. In fact, we cannot isolate, we cannot insulate ourselves from the scourge of the drugs and the drug addiction we are seeing.

This addiction does not discriminate. It doesn't discriminate against any demographic, any group. Again, it can't be confined to a single geographic region. It impacts young people. It impacts our older people, the lower income people, the middle-income people, and the higher income levels. Those of us who have served our Nation as our honored veterans, pregnant women, and even newborn babies can suffer from addiction.

The stories we hear when we are back home visiting with our constituents, talking with friends, talking with neighbors, and then hearing these stories recounted on the floor—these are heartbreaking stories that come from all over the country, from the east coast, again, all the way to the most remote villages of Alaska. We have seen and we have heard the pain that opioid addiction causes. It is important that we take action and that we address this issue now before it worsens. Unfortunately, as we see the statistics, that is where it is going, that is the trend, and that is the direction.

The rates of addiction and hospitalization will only continue to skyrocket unless we can throttle this back, unless we can get our hands around it. This is our opportunity not only to treat but to prevent opioid addiction. Lots of numbers have been discussed on the floor about this epidemic that we are seeing, and the numbers really are horrifying. In Alaska, the mortality rates related to opioid and heroin abuse have more than tripled since 2008. In 2015, we had 33 Alaskans die from heroin overdose—perhaps even more that we just haven't been able to identify. The rates on inpatient hospitalization for heroin and opioid poisoning have nearly doubled since 2008. The cost is over millions of dollars.

As we know, it is often our young people who suffer from addiction the most, and certainly the most directly. Between 2008 and 2013, the rate of individuals between 21 and 29 years old being admitted to treatment centers has doubled. Again, we are talking about numbers, and we are talking about statistics. But we are really not. We are talking about our friends, we are talking about family, and we are talking about neighbors. But we can make a difference if we provide the resources and if we provide the education and the outreach, not just to young people but to all, so that they understand the dangers of opioid addiction.

Unfortunately, some of what we have seen with this addiction is that somehow or another, opioids are viewed as less a health threat because they are prescription. What CARA does, what this legislation in front of us does, is to help address the educational need, provide States and communities with grant options and resources to ensure that all in the community—the educators, the parents, the doctors, other members of the community—have the knowledge and have the tools they need to guide and support young people and the community at large. But it is just so hard; it has been so hard to see families and friends lose their loved ones to addiction.

Over the past several months in the community of Juneau, our State capital, there have been a series of newspaper articles that have chronicled how that community has been impacted by the loss of young people due to heroin. Six young people, all under the age of 30, were lost last year. In September, a young man who was a softball player lost his life due to heroin overdose. Two weeks after that, another family lost a son who was going to film school.

You read the stories, you read the details about the lives of these young people, who could be like any of us until something happens. And what that something is is an exposure to opioids and an addiction that, again, cuts a life short. Those parents of these young people, as parents in States all across the Nation, grieve for the loss of their children and wonder what they could have done to perhaps help save their child's life. Again, the community of Juneau is recounting that, but it is all over our communities.

This drug addiction knows no boundaries. It seeps into and corrodes Alaska's most remote and rural communities. These are communities, I will remind you, where it is not like there is easy access to them. These are communities—80 percent of the communities in the State of Alaska are not connected by road. In order to get to them, particularly this time of year, the only way to get in is to fly in. It is expensive to fly in. In the summer, there are water options, but that too is expensive. So while it is difficult for people to move in and out, somehow or another the drugs are coming in and

out. The heroin and the opioid addiction have found their way into these remote communities, leaving families and loved ones scrambling and desperate as they try to help those whom they love.

Unfortunately, the resources we have in terms of any form of treatment centers are so incredibly limited. In one of the communities that is on the road system, the community of Palmer, just north of Anchorage, our largest city, I was at an event this summer. Lots of people wanted to talk to me at this picnic. There was a woman with her daughter who was in her early twenties, and that woman waited patiently, patiently, patiently to be able to speak with me alone. She asked to go off into a corner of the outdoor area that we were in so that she could speak to me about her daughter's situation. Her daughter was an addict. She had been in and out of jail. She had been in and out of treatment. Nothing had worked, and this mother had no place else to go, no place else for her daughter to go. So she, as one mom who cared, was trying to help raise awareness of the lack of facilities, the lack of treatment, and the lack of options for so many in her situation. You listen to stories like that, and you realize that we must attempt to do all we can.

Granted, we are sitting here in Washington, DC. The Federal Government doesn't always know what is best. We know that for a fact, but how is it that we can help these families, these communities, as they deal with, again, this scourge that has afflicted so many?

We have had some good news in the State of Alaska. Just this week, the Alaska State House of Representatives passed a bill that will remove civil liabilities for providing or administering the drug naloxone to treat opioid and heroin overdose. It was actually the representative from Juneau, Representative Munoz, who spoke to the need for reform and helped lead this important measure. That is on its way to the Governor's desk. Again, I think it is an important option for lifesaving treatment.

As we work together—those of us who have cosponsored the CARA bill and all who have expressed their concern—we know we need to keep the pressure on. We need to keep the momentum up to address this, not only in Alaska but around the country, to fight back, to deal with this addiction we are seeing, and to really attack the issue from every degree. From mental health to criminal justice reform, community programs, educational resources, tools for veterans and pregnant women, addressing this widespread issue with a widespread response is important.

I thank my colleagues who have led on this issue, and the Presiding Officer here today has clearly done just that. I thank the Presiding Officer for his leadership on this.

As I have spoken this afternoon on opioid addiction, and perhaps more specifically to heroin addiction, I always

feel compelled to mention that in my State, and particularly in Anchorage, we have seen a spike of “spice” abuse. This is a synthetic marijuana. More and more, we are seeing individuals who are being sent to the hospital. It is our firefighters who seemingly are responding to more spice and more heroin incidents than they are responding to fire calls. Recognizing that it is not just heroin, but it is other drugs that are truly wreaking havoc on our families and our communities, we need to unite together to make a difference.

So I think what we are doing here in this body is a first step. Passing this legislation is an important response, and through what we are doing, we can work to change the direction in which, unfortunately, we have been going.

With that, I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mrs. MCCASKILL. Mr. President, I was necessarily absent for today’s cloture vote on S. 524, the Comprehensive Addiction and Recovery Act of 2015. I would have voted yea. •

Ms. MURKOWSKI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SASSE). Without objection, it is so ordered.

WASTEFUL SPENDING

Mr. COATS. Mr. President, today marks the 36th edition of my “Waste of the Week.” For those who have been listening I have been down here every week, while the Senate is in session, addressing what has been documented as waste, fraud, and abuse.

I took on a major role when first coming back to the Senate starting in 2011 to deal with the larger issue of our plunge into debt through deficit spending year after year after year. Despite numerous attempts, many of them bipartisan, all blocked by decisions made at 1600 Pennsylvania Avenue, we have not been able to put in place a reasonable plan—or any plan whatsoever—that would reduce our spending, balance the budget and begin to chip away at this ever-deepening cesspool of debt. It is hurting our economy, and laying a burden on future generations that will have enormous negative consequences.

Given the fact that those larger efforts came to naught, I have decided to start chipping away from the other end of the fiscal spectrum to identify waste, fraud, and abuse, a much more efficient, effective Federal Government and not waste taxpayer dollars that these days are hard-earned and pretty scarce.

This “Waste of the Week” deals with not as substantive an issue as many of these. The speeches talk about a whole

range of issues that are taking a lot of taxpayer dollars out of the purses and wallets of our constituents, sent to Washington and simply wasted.

Every once in a while I try to present something that is so ridiculous, so unnecessary, that it catches the public’s attention and ought to embarrass every Member of this body. Some arguments can be made about, well, perhaps the Social Security Disability Trust Fund could be adjusted so we wouldn’t do this or that. But every fourth or fifth time down here I like to throw out something where people say: Are you kidding me? We are actually using our hard-earned tax dollars to do this?

One that caught the most attention was the grant that amounted to hundreds of thousands of dollars to determine whether a massage made you feel better after an expenditure of physical effort. If they were asked that question, there is probably no one in America who would not conclude that. They would say, yes, that works. I’d prefer a massage over no massage at all. But this grant was used to determine that.

Rather than take a human subject, they used mechanical massages on the backs of white rabbits. Actually, these rabbits were from New Zealand. Then they looked at the grin on the rabbit’s face—I don’t know how they determined it. Rabbits can’t turn around and say: Yes, that feels good. Apparently they made some kind of measurement, and after spending about \$400,000, came to the conclusion that, yes, it really works. Well, that caught people’s attention.

There are a lot of people who are outraged at the way we are spending their money. There are people trying to make their mortgage payment, trying to get to the end of the week for the next check, to buy groceries, or to set aside money for their kids to go to school.

This is one of those weeks where I want to bring forward yet another issue of “Can you believe this is how the Federal Government is spending your money?”

I am told by my staff that there is a new word around called “hangry.” It means that if you are hungry, you tend to get a little bit disjointed, and you are more angry than you would be if you were not hungry. I suppose that is something we could easily prove by all of us just asking: What is our disposition when we are hungry? Are we a little more tense or a little more quick to trigger in terms of getting upset about what someone may say to us or something like that—a little more irritable.

So this new generation has taken this condition called hangry, which is hungry and angry, and turned it into the term “hangry.” The National Science Foundation said: Well, we better find out whether this is true. So they issued a \$331,000 grant for researchers to study whether “hanger” actually occurs. If you get hungry, do you end up feeling “hangry”? That was the question. So researchers issued a

\$331,000 grant for the study on married couples. Listen, you can’t make this stuff up. They came up with the idea of giving each spouse a voodoo doll, and if they felt they were angry, they were to take a pin and stick it into the voodoo doll. They each had their own voodoo doll. Like I said, you can’t make this stuff up. It only cost \$331,000.

So whenever a spouse made the other spouse angry, the other spouse grabbed the voodoo doll and grabbed a pin and stuck it in. The conclusion was after a 3-year study and \$331,000 spent—yup, we proved it. “Hanger” occurs when you are hungry.

There are some Senate pages who are trying to hold back their laughter. I see a lot of smiles on the faces of people in this Chamber saying: Surely, this can’t be true. Surely, this is made up. Surely, this is a spoof to try to prove a point. This actually happened, folks. This actually happened.

The serious part of this is that the taxpayer paid for it. At a time when we are trying to repair roads and bridges, when we are trying to put money forward for health care research, when we are dealing with terrorist issues to make sure our national security is strong, when our military is underfunded, when we are trying to deal with all the issues of the day, we are taking this money—and of all things the National Science Foundation could do, they do this.

We take the \$331,000 and add it to our ever-growing accumulation of documented waste, fraud, and abuse of taxpayer dollars. We have now risen to a position of \$157,591 million and change. It is not small stuff. It adds up. This is what your Federal Government is doing, and we wonder why the American people are frustrated. We wonder why they are angry when they hear issues like this.

I am not trying to stoke the flames and make the American people more “hangry.” I am simply trying to expose this so we will be so embarrassed with these kinds of things that people will come down to this Chamber and offer legislation to clean up this stuff. We have already made some progress but we can make more.

MIGRATION CRISIS IN EUROPE

Mr. President, I would like to reserve some time to talk about something that I think is very serious, to discuss an issue that I think has an impact on all of us, particularly our national security.

Last week NATO’s Supreme Allied Commander, Gen. Philip Breedlove, whom I have had the opportunity to talk to a number of times, testified before the Senate Armed Services Committee about how he views the threats facing us today and what the most serious threats are to the United States. Featured among them was a serious migration crisis that is destabilizing our European allies. He said:

Europe faces the daunting challenge of mass migration spurred by state instability and state collapse. The influx of people is

masking the movements of criminals, terrorists, and foreign fighters. Within this mix, ISIS [or ISIL] . . . is spreading like a cancer, taking advantage of paths of least resistance, threatening European nations and our own [nation] with terrorist attacks.

Each day as we watch on television or read in the papers, this migration crisis continues to grow worse. Efforts by the European Union to stem the tide have failed to even slow down the flow of refugees and migrants. These repeated failures, now moving into its second year, are threatening to break the European Union apart as each member country resorts to a “fortress Europe” mentality, enforced by national means. These include new razor wire barriers along internal EU borders. They encourage divergent national policies on refugee admissions that make almost a mockery of EU policy consensus or even common efforts.

The EU agreement on common borders—described as the Schengen Agreement of 1985—has been considered the bedrock of European unity. If this fundamental agreement is crushed by the unsupportable weight of hundreds of thousands of desperate migrants, how can the European Union itself be saved? That is the question.

Many of our European friends are asking that question. I was recently in Munich at a security conference, and representatives from all the European nations were there. The No. 1 topic was the flow of migration and the destabilization of Europe and the unity of Europe, nations not abiding by their earlier commitments to receive migrants, nations raising barriers and building walls—whether they are razor wire or concrete walls—around their borders. It is creating a major crisis in Europe.

The political stability and social cohesion of individual European states are clearly under strain. We have seen street riots and police suppression. Growing hostility between citizens and migrant groups is spreading like wildfire. Extremist political groups are feeding on this chaos and further threatening democratic institutions. Even in Germany, an extremist right-wing, basically fascist party has grown its population from zero 4 years ago to 15 percent to 20 percent today, taking over in many places as the third largest party in Germany. We all know that after key state elections this weekend, this may be growing.

The latest EU effort to come to grips with this enormous problem is continuing at a summit meeting this week in Brussels, with attendance by Turkey. The draft agreement on the table shows how desperate the Europeans have become. Without discussing the detailed items here, it is sufficient to note that the central proposition under consideration is this: a convoluted system to send some migrant refugees from Greece back to Turkey in exchange for other migrants to be resettled directly from Turkey to European

countries. The United Nations High Commissioner for Refugees and other refugee organizations have denounced this proposal as unworkable and illegal. Some EU countries, such as Hungary, have even promised to veto this scheme.

Without entirely prejudging a proposal still under consideration, I nevertheless have to guess that even if it is accepted and enacted, it is unlikely to address meaningfully the real dimensions of this migration problem. Something else clearly has to be done. The numbers that are coming in show an ever-expanding number of migrants seeking relief by taking treacherous routes—many of them guided by criminal elements—into Europe and the European resistance and the instability all of that has provided.

The draft EU-Turkey agreement does include a commitment to pursue another idea, and that is what I want to talk about on the floor this afternoon. I have long advocated this as hopefully a more workable condition; that is, to create conditions in and near Syria that will permit people to remain there in humane conditions of relative safety near their home country, within their own culture. To my knowledge, European leaders as a group have not before committed to pursue this solution, but I have raised it with European leaders personally. The response has often considered the caution that Europe would not be willing to commit the resources necessary for such a solution. I agree that the resources required would be considerable and that the political courage required would be even greater, but, I have argued, what is the alternative? Until political leaders in Europe, and here as well, see that creating safe areas in and near Syria is the only possible solution to this migration crisis, the political courage and vision to take it up will be absent. But now, at least, the Europeans, having failed at a number of other efforts to address this destabilizing problem, are talking about it.

It has always been clear to me that such a solution is far beyond the capacity of Europe alone. It will require the United States and other cooperating powers to work with our European partners to create areas in and near Syria where Syrians can find safety and humanitarian relief.

As difficult as this task sounds—and surely it is—it has been done before. There is a precedent here. The manner in which the international community eventually came to deal successfully with the Bosnian war in the 1990s gives us a useful template for how we can approach the safe-area task in Syria. That template, derived from our Bosnia experience, includes two essential components: the U.N. Security Council and NATO, North Atlantic Treaty Organization.

First, we are going to have to have a clear mandate from the U.N. Security Council creating U.N.-designated safe areas.

Secondly, the U.N. Security Council would have to create a new U.N. protective force. “UNPROFOR” is the term that was used in the Balkans. In the Balkan example, that force was comprised of 40,000 troops from 42 contributing countries. In Syria, I would suggest that such a course would include most NATO countries and especially neighboring Islamic countries. Russia should also be pressed to participate. NATO could take on primary planning and organization tasks.

When I discussed this proposal with Europeans, the first response has been that no one is willing to put troops in the field to fight this war. It is important to emphasize that this UNPROFOR would not be in Syria to fight the war; rather, it would exist to protect the designated safe areas. The force would have policing functions intended to protect and secure the borders and keep radical elements out or under control. That was the model that was put in place in the Balkans. It succeeded. There were some glitches, there were some problems, but it succeeded.

Third, it is obvious that safe areas in Syria would require rigidly enforced no-fly zones authorized by the UNSC.

Mr. President, I have presided a number of times, and when the clerk turns and discusses the timeframe—may I ask whether I am under a time limitation? If so, I ask unanimous consent to extend that for just a few moments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, as I said, it is obvious that safe areas in Syria would require rigidly enforced no-fly zones authorized by the U.N. Security Council. I suggested that with its planning and leadership capabilities and massive resources, NATO should take on that job, as it did in the Balkans. In this role, too, NATO must work creatively to bring in the regional powers in a broad, coordinated effort under NATO leadership.

Fourth, as in Bosnia, the U.N. must mobilize a massive relief effort within Syria led by the UNHCR and similar humanitarian organizations.

The international community must be willing to pay for this important humanitarian effort. We should call for major contributions from the regional states, European countries, and other traditional donor countries long committed to the humanitarian crisis.

Dealing with so many refugees in safe, humane conditions will be expensive, yes, but it cannot be more expensive than the costs already being borne by those destination countries burdened with uncontrolled migration.

In the current discussions of Turkey, the EU has offered 6 billion euros to help them deal with refugees, and Turkey has reportedly demanded as much as 20 billion euros. With such sums being discussed—and they almost certainly are underestimates—the costs for caring for these desperate people humanely, in conditions of safety, and

in or near their homeland, are easily justified.

Far greater costs will be incurred if this problem is not dealt with effectively. For example, a collapse of the Schengen system and reimposition of border controls in Europe—a process now underway—could cost as much as 1.4 trillion euros over the next 10 years, according to a recent European Commission report. This is the cost in reduced economic outlook for the region, not including the costs for infrastructure and personnel if the Schengen system is abandoned.

In returning to where I began, the extra security gained by such a solution is beyond price.

I strongly believe the time has now come for us to press vigorously for the safe-area solution to the migrant crisis. The problem is growing far worse with each passing month. Efforts to identify other solutions have failed, and the safe-area proposal may be the only one left standing. Those who are discouraged by the admitted obstacles and great difficulties in pursuing this solution must simply be persuaded to take it up with creativity, determination, courage, and leadership.

I have discussed this proposal directly with Vice President BIDEN, Secretary of State Kerry, Supreme Allied Commander and NATO Commander General Breedlove, and senior European leaders. The Vice President, based on his own experience with the Balkan wars, agrees that the Bosnia precedent could be a useful guide. The general agrees that there are sufficient resources if there is sufficient political will. The European leaders I have spoken with agree that no other alternative is visible at this time. That they included this idea in the negotiations with Turkey is a positive sign. I intend to keep these discussions going in coming days.

In conclusion, I am under no illusions about how difficult this task would be for either us or our allies. It is an enormous undertaking, and even when it does not address the underlying conflict in Syria, which has so far defied all of our best efforts, it is something we must pursue. However, the continuing flow of millions of refugees and migrants is completely unsustainable, posing serious threats to our European friends and ultimately to all of us.

I will continue to press for this and talk to European leaders and others in our country to see this as a necessary, viable, and doable solution to a crisis situation that is having enormous impacts on the stability of Europe and even on the United States in terms of this humanitarian crisis.

With that, I thank my colleague for his patience and allowing me to conclude.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Rhode Island.

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am on the floor for the 130th time in

my “Time to Wake Up” series urging us to wake up to the threat of climate change here.

Time and time again, peer-reviewed science demonstrates that carbon pollution from burning fossil fuels is causing unprecedented climate and oceanic changes. We see the effects already in our farms, our forests, and our fisheries. Yet the Republican-controlled Congress continues to hit the “snooze” button every time an alarm goes off.

Every major scientific society in our country, upon examining the data, says climate change is real and it is caused by our carbon pollution. So do all of our National Laboratories. So do our leading home State universities. The Presiding Officer is from Nebraska, so let me read what the University of Nebraska says on its Web site: “Climate change poses significant risks to Nebraska’s economy, environment, and citizens.”

Another quote: “The magnitude and rapidity of the projected changes in climate are unprecedented.”

The fundamental science of climate change is settled, and the stakes of the climate crisis loom large. In poll after poll, Americans demonstrate they understand the connection between climate change and the role humans play in affecting climate. A recent poll shows that 64 percent of Americans support enacting policies to address climate change and 78 percent of Americans think Federal Government should curb the release of greenhouse gases.

In spite of the overwhelming science demonstrating that climate change is real and the growing awareness and determination of the American public to do something about it, Congress continues to prevaricate. The reason is simple: the power and threats of the fossil fuel industry. But is this strategy, the fossil fuel industry strategy of obstruction and denial, actually self-injurious?

Let’s look at coal. The coal industry—longtime provider of inexpensive yet dirty energy—is in economic decline. Between 2008 and 2014, coal production and consumption have decreased by 15 percent and 18 percent respectively. Analyses by the U.S. Energy Information Administration suggest 2015 U.S. coal production was likely down a further 10 percent, the lowest level since 1986. Coal is losing its share of the electricity market to natural gas and to wind power. From 2002 to 2012, net generation from coal declined by 22 percent and coal-fired electricity, which just 15 years ago constituted 50 percent of the electricity on the grid, now makes up only 33 percent, roughly, and falling. Gas-fired powerplants generated more energy than coal in 7 of the 12 months of 2015. Prior to 2015, gas-fired electricity generation never exceeded coal.

The top four U.S. coal companies—Peabody Energy, Arch Coal, Cloud Peak Energy, and Alpha Natural Resources—produce approximately half of

the domestic volume of coal in this country. In the past 5 years, all four companies’ stock prices have crashed. According to a recent report from the Niskanen Center, a Libertarian-leaning think tank, the combined total revenue of these top producers between 2010 and 2014 declined by approximately 18 percent.

Wall Street giant Goldman Sachs recently delivered more bad news for the global coal market. According to its analysis, “the industry does not require new investment given the ability of existing assets to satisfy flat demand, so prices will remain under pressure as the deflationary cycle continues.”

The coal industry seems divorced from this reality. Consider what Peabody’s CEO Gregory Boyce argued in his company’s 2014 annual report: “[T]hermal coal consumption from the low-cost U.S. regions . . . is likely to increase 50 to 70 million tons over the next 3 years as natural gas prices recover, demand from other regions is displaced, and expected coal plant retirements are offset by higher plant utilization rates.”

Well, the Energy Information Administration disagrees, projecting thermal coal demand growth of just 4 million tons between 2012 and 2018. And remember, this was Peabody Energy’s CEO speaking last week. Wyoming’s Star Tribune reported that Peabody Energy’s senior lenders are recommending that America’s largest coal company file for bankruptcy, as Arch Coal, the second largest coal miner in the United States, did in January. Patriot Coal Corporation, Walter Energy, and Alpha Natural Resources have also all filed for bankruptcy in the past year.

The fossil fuel strategy of political obstruction for coal is looking more and more like economic suicide.

In some corners, light is dawning. Appalachian Power president and CEO Charles Patton told a meeting of energy executives last fall that coal is losing a long-term contest with natural gas and renewables. He said this: “If we believe we can just change administrations and this issue is going to go away, we’re making a terrible mistake.”

Well, what if there is an answer to this terrible mistake that is also an answer to climate change. What if we could reduce the amount of carbon pollution we dump into the atmosphere and oceans while helping communities to transition from coal-based economies to clean energy ones, helping coal miners. More and more conservative and libertarian economists are making the case that the ailing coal industry should embrace a fee on carbon.

The idea is simple. You levy a price on the thing you don’t want—carbon pollution—and you use the revenue to pay for things you do want. Greg Ip, chief economics commentator for the Wall Street Journal wrote:

The most reliable way to limit the bushing of fossil fuels is to alter market signals so as

to divert demand toward cleaner sources of energy or conservation. We know how to do that: Put a price on carbon dioxide emissions via a tax, or via tradeable emission allowances in a cap-and-trade system. Both incentivize the market to find the least economically harmful way to reduce emissions.

Dr. Aparna Mathur of the conservative American Enterprise Institute conducted an analysis with a colleague from the Brookings Institution showing a carbon fee could reduce emissions, shore up the country's fiscal outlook, and play an important role in broader tax reform. Dr. Mathur points out: "The fact that we understand better the burden of a carbon tax and how to offset it for low-income households should make us more likely to adopt this policy, not less so."

In fact, even the fossil fuel industry knows a carbon tax is an effective mechanism to help shift toward a low-carbon energy future. Six of the world's major oil and gas companies, including BP Group and Royal Dutch Shell, wrote the United Nations last summer saying they could take faster climate action if governments work together to put a proper price on the environmental and economic harms of greenhouse gas emissions. Here is what they said:

[W]e need governments across the world to provide us with clear, stable, long-term ambitious policy frameworks. We believe that a price on carbon should be a key element of these frameworks.

Harvard Professor N. Gregory Mankiw was chair of the Council of Economic Advisers for President George W. Bush, and he served as an economic adviser to Republican Presidential nominee Mitt Romney. He agrees: "The best way to curb carbon emissions is to put a price on carbon."

With a robust price on carbon, Congress could help coal mining companies, help coal mine workers, and help States and communities with significant coal mining activity. A carbon fee could be used to help coal companies by supplanting current taxes and fees and funding carbon capture for existing operating coal plants. A carbon fee could help coal workers by retraining them for high-paying jobs and providing pension and health care security not available from bankrupted employers. A carbon fee can provide assistance to coal mining communities to help them transition through all the challenges I have described.

A report by David Bookbinder and David Bailey of the Niskanen Center said this:

The coal industry is facing terminal decline. . . . An unfettered chaotic decline of the coal industry would create major social and economic issues such as deep regional unemployment and a multitude of unfunded liabilities, particularly for coal-dependent States.

They point out that there is a way to solve these problems:

Compensation for the losers from government policy action is an important conservative principle.

It is in this spirit that I introduced, along with Senator SCHATZ, the Amer-

ican Opportunity Carbon Fee Act of last year. I call it a carbon fee because none of the revenues would go to fund Big Government. The bill is a simple proposal to cut emissions while raising over \$2 trillion in revenue, all of which would be returned to the American people—no bigger government.

In addition to slashing the corporate tax rate, which the revenues would let us do, and providing families with tax credits beginning at \$1,000 per couple, which the revenues also would allow us to do, the bill would provide \$20 billion of flexible annual funding back to the people through their States to be used to help them through this inevitable transition—this inevitable transition. In coal-heavy States, this money could make the difference for communities that have been reliant on coal jobs.

Arthur Laffer, economic adviser to President Reagan, called our bill a "game-changer." He said of my proposal: "I applaud Senator Whitehouse's efforts to reduce carbon emissions while simultaneously offsetting—through pro-growth marginal tax rate decreases—the harm done to the economy by the carbon tax."

I introduced my bill to start a conversation with Republicans on how best to design a carbon fee to help the economy. I would welcome the opportunity to sit down with any colleague to discuss ways to improve our proposal.

The coal industry in particular has a clear choice: either to keep fighting climate action, keep obstructing, keep their head in the sand, continue to be truculent and obtuse until they crash into more bankruptcy in that unfettered chaotic decline the Niskanen Center predicts or they could embrace a carbon fee and use it to provide for coal communities, to provide for coal workers, to provide for carbon recovery, and to provide for retirees burdened with unfunded pension obligations.

Mr. President, I have put a ladder into the water, and I urge the coal industry, before it goes under, to grab hold.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Michigan.

FILLING THE SUPREME COURT VACANCY

Mr. PETERS. Mr. President, our Nation's Founders fought the British Empire to create an independent nation governed by laws. They fought so their children could be freed from the callous fiats of a monarchy on the other side of the ocean.

Our Founders learned from the excesses and mistakes of European powers and came together to design a new system of government, a carefully balanced system, one of distributed powers and responsibilities, checks and balances. American schoolchildren learn about the three coequal branches of government and the unique roles they play in maintaining that carefully crafted balance of power.

A strong, independent, and fully functioning judiciary is inseparable

from a healthy American democracy. Our Founders wisely reached consensus to create a system wherein the President designates judicial nominees and the Senate provides advice and consent. This prevents undue influence or control by either the White House or the Congress over the Supreme Court. Simply put, the Senate has a constitutional duty to provide timely consideration of any President's Supreme Court nominees.

Today, I would like to focus on three distinct and complementary reasons why we must fulfill this obligation. First, we should examine the ample historical records available to determine the intent of our Nation's Founders. Second, we should look at the actual text of the Constitution and the plain meaning of the words in the document we all agree represents the highest law in the land. Finally, we can look at the Senate's track record and traditions when it comes to considering Supreme Court nominees.

As Senators, we raise our hand and take a solemn oath to defend the Constitution of the United States and faithfully discharge the duties of our office. One of the core constitutionally mandated duties of serving as a Senator is to advise and consent on Supreme Court nominees, and it is not one we can take lightly.

We are fortunate that many of our Nation's forefathers were prolific writers who left us reams of documents that now help us understand the debates and the discussions that led to our current system of government.

Our Nation's fourth President and the youngest member of the Constitutional Convention, James Madison, kept a record of the debates that occurred during those formative months of our Nation in the summer of 1787. I urge my colleagues to revisit this record as they consider how to proceed with our Nation's next Supreme Court nominee.

On June 4, 1787, James Wilson of Pennsylvania—a signatory of the Declaration of Independence and a member of the Continental Congress—argued that justices should be appointed by the executive branch alone and strongly opposed appointments made by the Federal legislature. Madison disliked the appointment of judges by the legislature but also wasn't satisfied with a unilateral Executive appointment. He ultimately suggested that judicial appointments should be made by the Senate. This issue of judicial appointments was debated vigorously and continued over multiple sessions as delegates traded proposals. Charles Pinckney of South Carolina and Roger Sherman of Connecticut opposed Wilson and pushed for the legislative appointment of Justices.

Madison, however, moved us closer to our present system by suggesting that only the Senate should have the power to appoint Justices to the Supreme Court and not the House of Representatives.

Nathaniel Gorham, a delegate from Massachusetts, first introduced the concept of appointment by the President with the advice and consent of the Senate. This balanced approach resolved the concerns of delegates who believed unilateral Presidential appointments bordered on monarchy, while also addressing the concern that legislative appointments were simply too vulnerable to the fleeting parochial interests that may dominate the discussion on any given day.

Months later, on September 7, 1787, the delegates unanimously agreed on the final language that governs the nomination and confirmation of Supreme Court Justices to this day. Our Founders' focus on the appointment and confirmation of the Supreme Court Justices was not an academic exercise, nor was it an intergovernmental turf war. It was an iterative, deliberative process with a clear goal: a strong and independent judiciary.

Alexander Hamilton, probably the most prolific of our Founders when it comes to the written word, directly addressed the independence of the judiciary in *The Federalist Papers*. He argued: "Liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either of the other departments."

Hamilton was concerned that a Supreme Court too heavily influenced by Congress or the White House would not adequately protect the rights and freedoms of the American people. He wrote that an independent judiciary "will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them."

Tying the hands of the Supreme Court by keeping an empty seat on the nine-member bench amounts to the union between the departments that Hamilton warned us about. Refusing to even consider a Supreme Court nominee strengthens the Senate to the detriment of the executive and judicial branches, throws off a carefully crafted balance of power, and contravenes our Founders' intent. Some legal scholars, Senators, and members of the judiciary argue that intent is irrelevant and that we should strictly construe the words on the page.

Let's look at the plain meaning of the constitutional text. Article 3, section 1, states that "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

While lower courts could be established by Congress, the Supreme Court resolves issues between and among the States. It is the highest Court in the land, a Court of finality.

The Constitution specifically addresses the appointment of Justices to the Supreme Court.

Article 2, section 2, states the President "shall nominate"—and I repeat "shall nominate"—"and by and with

the Advice and Consent of the Senate, shall"—and I repeat "shall"—"appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court."

"Shall" is not a word that is considered ambiguous. Its meaning hasn't evolved over time. It is not open for interpretation. It is not permissive in nature. It is instructive, and it is clear.

There are many modern-day issues we face that our Founders could have never imagined. We will grapple with novel constitutional questions for as long as this Nation exists. But the question of how Supreme Court Justices are appointed is something our Founders debated, decided, and they enshrined in the Constitution.

The President is required to nominate a Justice, and the Senate has the job of confirming or rejecting that appointment. If the Senate attempts to undermine the President's constitutional responsibility to nominate a Justice and this body fails to provide advice and consent on that nomination—well, we then have abdicated one of the Senate's most important and sacred constitutional obligations.

The Senate has a longstanding tradition of swiftly considering and confirming judicial nominees. Presidents and the Senate have historically taken their responsibility to fill the Supreme Court very seriously, even when they were at odds over who that nominee may have been. I am surprised and also disappointed that so many of my colleagues seem to be ignoring their constitutional obligations in a stark departure from the history of the U.S. Senate.

According to the nonpartisan Congressional Research Service, since the Judiciary Committee's creation 200 years ago, they have typically reported Supreme Court nominations that were opposed by a committee majority to allow the full Senate to make the final decision on whether the nominee should be confirmed.

Let me repeat this very important fact. Even if a nominee was opposed in committee, their nomination was still brought to the floor of the Senate for a vote.

Let's also consider recent history. Since 1975, the time from a President's formal nomination to hearing has averaged 42 days. The time from a nomination to committee vote has averaged 57 days. The time from a nomination to floor vote has averaged 70 days.

The current vacancy we are dealing with occurred 269 days before the 2016 election and with 342 days remaining in President Obama's term in office. Without doing a whole lot of math, it is safe to say that there is more than enough time to nominate, consider, and confirm a Supreme Court Justice before the November election if we move at a deliberate, average pace, on par with what has existed for over four decades.

If the Senate waits for a new administration before even considering a

nominee, we will be approaching a full year with an empty seat on the highest Court in the land. Not since the American Civil War has the Senate taken longer than a year to fill a Supreme Court vacancy.

There is a reason that Presidents and the Senate work together and historically do not drag out Supreme Court nominations: An eight-member Supreme Court simply cannot fully do its job. The cases in which the Supreme Court relies on having all nine Justices to break a deadlock are often those that are most contested. They involve timely, novel legal issues and resolve splits between Federal circuit courts.

Legal scholar Justin Pidot recently cited Chief Justice William Rehnquist regarding situations where the court of appeals had arrived at different conclusions about the resolution of legal issues. Rehnquist said: "Affirmance of each of such conflicting results by an equally divided Court would lay down 'one rule in Athens, and another in Rome,' with a vengeance."

Over 30 constitutional law scholars recently echoed that sentiment, writing: "A vacancy on the Court for a year and a half likely would mean many instances where the Court could not resolve a split among the circuits. There would be the very undesirable result that the same federal law would differ in meaning in various parts of the country."

Federal law is just that: It is Federal. We cannot have one interpretation of Federal law in Michigan, Ohio, and Kentucky and a whole different interpretation of law in Wisconsin, Illinois, and Indiana.

Previous Presidents have weighed in on the importance of a fully operational Court. President Reagan said: "Every day that passes with a Supreme Court below full strength impairs the people's business in that crucially important body."

I know many of my colleagues in the Senate revere President Reagan, and I wish to repeat his important words that have so much relevance to what we are debating here today. He said: "Every day that passes with a Supreme Court below full strength impairs the people's business in that crucially important body."

In fact, President Reagan was able to make a Supreme Court appointment in his final year in office. The Senate fulfilled its duties by providing timely consideration of that nominee, Justice Anthony Kennedy.

Forcing lower courts to serve as the courts of last resort empowers congressionally created courts and weakens the Supreme Court in a way that was never intended by the Framers of the United States Constitution.

I wish to remind my colleagues that the Constitution allows Congress to decide how to organize the lower courts. But the Constitution requires—it requires—the advice and consent of the Senate for confirmation of Supreme Court Justices. We must do our job so that the Supreme Court can do theirs.

The American people have elected President Obama to office twice, and he has a constitutional obligation and clear authority to nominate a candidate to succeed Justice Scalia on the Supreme Court.

The Senate has previously confirmed six Supreme Court nominees in Presidential election years, including most recently under President Reagan. There is no reason we should not consider any nominee put forward by the President with a fair hearing and a vote. Each and every Member of this body has the responsibility to thoroughly scrutinize and decide whether or not to confirm the President's nominee.

I ran for the U.S. Senate because of my desire to serve the people of the State of Michigan. I took an oath, as did every Member of this body, swearing to defend the Constitution and faithfully discharge the duties of our office.

The Senate must honor the thoughtfulness of our country's forefathers and respect the independence of each of the branches of our Nation's government. We must also respect the United States Constitution. The role of the Supreme Court is simply too important to our democracy for the Senate to ignore the Constitution and wait nearly a year to do its job.

Members of this body must fulfill their obligations. The Members of this body must honor their duty and uphold their constitutional oath. And the Members of this body must fully consider and evaluate the qualifications of any nominee the President submits.

I look forward to doing my own thorough review of the President's nominee and working with my colleagues to fulfill our essential constitutional duties.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FLAKE). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIOMEDICAL RESEARCH

Mr. ALEXANDER. Mr. President, last year the law everybody wanted to fix was named No Child Left Behind. Despite many different opinions and many different political attitudes, we got it done. I give great credit to the Senator from Washington, Mrs. PATTY MURRAY, and to the members of our Education Committee, 22 Senators of widely divergent political views, for their willingness to do that.

I often say if all you want to do is announce your opinion, you can do that at home. You can stand on the street

corner and preach or you can get your own radio program, but if you want to be a U.S. Senator, after you announce your opinion, you are supposed to get a result, and that means work with other people to identify common areas of interest and see if you can, and we were able to do that with the bill that fixed No Child Left Behind. Not only did we reach a consensus that needed to be fixed, we reached a consensus on how to fix it. The President signed it on December 10. He called it a Christmas miracle. It passed broadly in this body and it had the effect of reversing the trend toward a national school board, of repealing the common core mandate, and of, according to the Wall Street Journal, being the largest devolution of power from Washington to local control of schools in 25 years. So it was a significant bill, and I would argue that no bill that the Congress enacted last year was more important.

This year, I would suggest that if we are successful, that the most important bill that passes this body will be a bill to advance biomedical research, a companion bill to the 21st century cures bill the House of Representatives already passed. That is because this is the opportunity that everybody wants us to take. It is the opportunity to take advantage of the tremendous advances in scientific discovery that have created an environment where we have opportunities to help virtually every American.

We are able to cure some cancers instead of just treat cancers. Children with cystic fibrosis are beginning to be actually cured of their disease, a disease that was completely debilitating. Remarkable advances are being made because of genomic research. We have exceptionally talented people in charge of the agencies in dealing with this; for example, Dr. Francis Collins with the National Institutes of Health and now the recently confirmed Dr. Califf at the Food and Drug Administration. So this is the best opportunity we have to make a mark in the Senate this year to help virtually every American, and we have some catching up to do.

It is rare that I would admit the House of Representatives is ahead of us, but they are. They called their bill the 21st century cures bill. We have a common objective; that is, to get cures, drugs, and treatments through the regulatory process and the investment process more rapidly and into the medicine cabinets of the doctors' offices so they can help people. They finished their work last year. The President has taken the lead. He has called for a Precision Medicine Initiative. It is one of his major initiatives. I talked with him about it last year. I said: Mr. President, we will help you do that, and the way to do it is through our Biomedical Innovation Initiative. What he wants to do, to begin with, is to get a million genome sequenced so that when the Senator from Arizona is sick—which he rarely is, he is in such good health—or I am sick, the doctor

may prescribe medicine that fits our own individual genome and not just a medicine that is, in effect, one-size-fits-all. That is just part of the excitement of precision medicine. And then more recently the President has announced the Cancer Moonshot to try to make further advances in that.

There is additional interest on both sides of the aisle in a surge of new funding for the National Institutes of Health, possibly including mandatory funding, if it is properly done, which means replacing other mandatory funding. There is bipartisan interest in that.

But none of that will happen unless we move through our committee and on to the floor and to a conference with the House and on to the President's desk our biomedical research bill, our companion bill to the 21st century cures.

The only way to get support for the President's Precision Medicine Initiative, the only way to get the Cancer Moonshot, the only way to get a surge of funding that may include mandatory funding for the NIH is to pass this bill. Let's be blunt about it.

The good news is, we are making good progress. We are making good progress. I wanted to report to the Senate that this morning we had our second markup, our second meeting of our full committee where we discussed the measure we have been working on for more than a year for our biomedical innovation bill. We have come up with 50 bipartisan proposals that Members have been working on to get patients access to more drugs, cures, and treatments in a safe and effective way. We have held 10 bipartisan hearings on our innovation project, and 6 of those 10 hearings have been on an electronic health care records system. That program, we found, was in a ditch. The taxpayers have spent \$30 million on it to try to draw into it doctors and hospitals to use electronic medical records so that you could take—so you know what your records are and the doctors could prescribe and diagnosis more easily. The problem was, it wasn't done very well. Stage one was helpful, most of the hospitals and doctors said to me. Stage two was difficult, and stage three, in their words, was terrifying.

Precision medicine will not work unless we have an interoperable electronic health care records system that has as its goal simplifying what happens in the doctor's office or the patient's bedroom in such a way—both with devices and with data—that people can make sense of it. It will improve the practice of medicine. It will reduce the huge amount of time doctors are spending on documentation. Some doctors say they spend 40 or 50 percent of their time doing that. If they are doing that, either they are doing something wrong or the government is doing something wrong, and my guess is we are. That is my guess. So we set out this year to take several steps to change that.

The administration—and I will give them credit—has gotten the message as well, and they, including Dr. DeSalvo and Secretary Burwell and Andy Slavitt, the head of CMS, have made a priority of trying to take this electronic medical records system and get it back on track so that doctors and physicians will see it as an opportunity and not as a burden.

We have several steps in our legislation that will help make electronic medical records work better. They include giving agencies more flexibility for alliances like the Vanderbilt-Google partnership that was announced the other day. They include dealing with the privacy issues that occur when you get a million genomes sequenced. They include encouraging interoperability and data sharing that is essential to doing this. So we are all working together to do that, but it will be necessary to pass our bill for electronic medical records to move more rapidly, and it will be necessary for the electronic medical records system to work if the President's Precision Medicine Initiative is to work.

Last month we had a markup in our committee where we considered 15 of our bipartisan proposals and 7 bills, and we passed them all. The bills will mean better pacemakers for Americans with heart conditions, better rehabilitation for stroke victims, more young researchers entering the medical field, and better access for doctors to their patients' medical records, as I just described. And for the parents of a child suffering from a rare disease like cystic fibrosis, the bill from Senators BENNET, BURR, WARREN, and HATCH increases the chances that researchers will find a treatment or cure for your child's disease. That was the good work in the committee last month.

Today, we met all morning and we considered 7 more bills, and about 15 more proposals were incorporated in those bills. Each of those bills, the Senators feel, is an important step forward. For example, Senators CASEY, ISAKSON, BROWN, and KIRK offered a bill, which was passed, to create drugs to treat or cure rare diseases in children.

Senators BURR, BENNET, HATCH, and DONNELLY proposed, and it was passed, to create a new system for breakthrough devices that is similar to the breakthrough for drugs that Senator BURR and Senator BENNET and others worked on in 2012, and that has shown such promise and such results. Everyone is pleasantly—I wouldn't say surprised, but maybe surprised by how many new drugs have been approved by the FDA using the breakthrough process from 2012. We hope the same will be true with the breakthrough process for devices.

Senators BENNET and HATCH offered a bill that will remove the uncertainty in the definition of "medical devices" that was adopted in 1976. Most people didn't even know what software was in 1976.

Senators BURR, CASEY, ISAKSON, and ROBERTS had a bill to spur the development to save the lives of victims of bioterror.

Senators ISAKSON, CASEY, DONNELLY, and ROBERTS offered a bill to prevent the promising new field of combination products from getting caught in red-tape at the FDA. By combination products, I mean devices and drugs together.

A bill from Senators WICKER, KLOBUCHAR, BENNET, COLLINS, and FRANKEN would increase the say patients would have in the FDA approval process about treatments received in a clinical trial.

Senators FRANKEN, NELSON, ISAKSON, and BROWN had a bill to encourage companies to develop a treatment, cure, or vaccine for the Zika virus.

These were all adopted, but for these to become law, we have to pass our bill. We have to bring it to the floor this year, and we have to do it in a bipartisan way and pass our bill.

At 3 markups—our third one will be in April—we will consider 50 proposals, and every single one of them has bipartisan support. There are two or three areas where we have a difference of opinion. I am glad to see the Senator from Illinois is here because one of the areas we discussed this morning is one where he has been very important, and that is to have a surge of additional funding for the National Institutes of Health. Numbers of us were very proud of the work Senator MURRAY, Senator BLUNT, Senator DURBIN, and others did to make sure that we had \$2 billion more in the regular appropriations last year for the National Institutes of Health—very important.

A number of us believe that it would be appropriate in connection with this innovation legislation to have a surge of additional funding for specific projects at the National Institutes of Health but not at the expense of a steady increase in the regular discretionary funding. There are a variety of reasons for that. I won't go into them all today because the Senator from Illinois may want to speak. But if we are talking about mandatory funding, mandatory funding is already out of control, and the President's new budget has \$682 billion of mandatory funding in it. It also has new taxes to pay for it, which the Congress isn't going to adopt. The more responsible proposal would be to reduce mandatory funding by \$682 billion.

In any event, if we have any mandatory funding, it needs to replace other mandatory funding. And we don't want to create a situation where anyone gets the idea that mandatory funding is a substitute for steady increases in discretionary funding, which has happened before. As Senator BLUNT pointed out this week in our appropriations hearing, when the Congress put in the mandatory funding for community health centers and the National Health Service Corps, the discretionary funds started to dry up.

So we have different proposals for how to deal with this. The Democratic Senators on our committee have recommended \$50 billion over the next 10 years. I recommended an NIH innovation fund which would create a surge of funding for high-priority initiatives at NIH, including the President's Precision Medicine Initiative, the Cancer Moonshot, the BRAIN Initiative, Big Biothink Awards, and a Young Investigator Corps. It would be in addition to discretionary funds, not a replacement for them.

So my hope is that Senator MURRAY and I and our committee can work together over the next 2 or 3 weeks and complete our work on our biomedical research legislation by our markup on April 6. I hope we can come to the floor and present to Senator MCCONNELL, the majority leader, along with that, a bipartisan consensus for an additional surge of funding, including mandatory funding for medical research in the areas I have suggested. I have said that we will need to replace other mandatory funding in order for it to be considered. I hope we can work that way in the committee, and I hope the Senate will look forward to receiving this.

I will conclude by simply saying that last year I believe no bill was more important than that we worked on in the Senate than the bill to fix No Child Left Behind. It affected 50 million children, 3.5 million teachers, and 100,000 public schools. The only reason it happened was because we had Senators of very different backgrounds and attitudes and political differences who agreed that a result was more important. The same here. The opportunity everybody wants us to take this year is to take advantage of this magnificent scientific revolution and encourage the research and the other steps we need to take to move treatments and cures and drugs into the medicine cabinets and the doctors' offices more rapidly, in a safe and effective way. I believe we can do that. I hope our work is finished by early April. I hope it is bipartisan.

I look forward to the opportunity of being able to say later this year that the most important bill the Senate worked on with the House and the President is this 21st century cures idea. The House has done its job. The President is out front. We need to catch up. I am convinced we can.

I thank the Presiding Officer.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, having followed my friend and colleague from Tennessee, Senator ALEXANDER has spelled out an exciting possibility, and I know it won't be easy. It is a heavy political lift. But what he is talking about is coming up with a dramatic commitment of funds for medical research for the next 8, 9, or 10 years, over and above the ordinary budget of the National Institutes of Health.

We have sat down and talked about this several times, and I wholeheartedly endorse not only his concept

but also when he gets down to specifics. Some of the things he wants to focus on, including the Moonshot for Cancer, for example, is one, of course, the President and the Vice President and the vast majority of Americans would endorse because there isn't a single one of us who hasn't been touched by the threat or the actual disease of cancer among our families and friends.

I won't go through the entire list, but whether we are dealing with the issues involving the brain, including Alzheimer's, Parkinson's, neurological issues—there are so many needs there, and I wholeheartedly endorse what he is setting out to do. On a bipartisan basis, I will work with him and Senator MURRAY and Senator BLUNT and Senator LINDSEY GRAHAM. We all share these feelings, that this is something that will be a legacy item for this Senate.

I thank the Senator from Tennessee for his leadership and his cooperation in building up the budget for the National Institutes of Health research this year. The \$2 billion will make a difference. I thank the Senator for being on the floor.

LEAD CONTAMINATION

Mr. President, I would like to address a couple of issues.

The contaminated water crisis in Flint, MI, is a wake-up call across America. We have to have protections in place when it comes to lead contamination. My heart goes out to people in Flint, MI, dealing with the consequences of this preventable, man-made crisis. The Senate needs to do something to help the people of Flint. We must also recognize that children across America are poisoned every day by lead, and we need to do something about it to protect these families.

A Chicago Tribune reporter, Michael Hawthorne, recently authored some articles on this issue, revealing hundreds of cases of childhood lead poisoning stemming from different sources in Flint, such as lead-based paint in federally subsidized housing. That's right—housing we own as taxpayers, housing we manage as the Federal Government, and housing which is dangerous to the children who are living there. Exposure to high levels of lead poisoning can be devastating to a child, causing irreparable damage. Because the children who live in this housing are from low-income families—many minority families—lead poisoning can further trap these kids in the cycles of poverty, violence, and inequality. Families are often stuck in the homes even after the lead is discovered with no place to go.

That is why Senator MENENDEZ from New Jersey and I joined together to offer the Lead-Safe Housing for Kids Act, to ensure safe and affordable housing by reducing the threat of lead exposure and lead poisoning. Congressional Representatives KEITH ELLISON, MIKE QUIGLEY from my State of Illinois, BRENDA LAWRENCE, and DAN KILDEE have introduced companion legislation in the House.

Since the enactment of Federal lead policies in the early 1990s, lead poisoning rates have fallen. This is a big success story. However, the risk of lead poisoning from lead-based paint hazards found in homes continues to threaten kids who are living in homes built before 1978. This is especially true in Illinois. It is a problem in Cleveland, Baltimore, Buffalo, Pittsburgh, and many other cities.

HUD regulations are outdated, ineffective, and based on old scientific discoveries that haven't been updated. Under current HUD regulations, a landlord is not required to remediate a home to make it safe where lead-based paint hazards have been found until a child's blood lead level is 20 micrograms of lead per deciliter. That standard from HUD is four times the standard of the Centers for Disease Control. When I asked Secretary Castro of Housing and Urban Development why would we have such a disparity—why would you allow lead contamination in a child four times the level of what the Centers for Disease Control says is acceptable? He said: I have no answer, and we are going to change it. It is just wrong. I salute him for acknowledging that, and I hope to help him in any way I can to change this regulation.

We also need better inspections. Inspections to qualify to be a part of a Federal housing program are cursory visual inspections. There is no way to discover lead paint that can be dangerous to household members or kids unless you have a thorough inspection. In addition to that, once we discover there is lead in the residence, we have to find another place for the family to live unless that lead can be remediated quickly.

No one knows this better than Lanice Walker. She moved out of public housing in 2012 and into a home with a housing choice voucher. What an opportunity for her family—a new home. Less than 5 months after she and her family moved in, her 4-year-old daughter was diagnosed with lead poisoning. Lanice was aware of the dangers of lead in kids. She asked the Chicago Housing Authority for permission to move. They said no. Why? Because her daughter's blood level hadn't met the HUD standard. It met the CDC standard, which was one-fourth, but hadn't met the HUD standards. So despite her daughter having a blood lead level twice that of what the CDC considers to be dangerous, they wouldn't move her out of her house. So she stayed. Within the next year, another child in the house was diagnosed with lead poisoning, too, and then another one. Before she moved out, all nine of Lanice's children had elevated blood lead levels. Even so, she received permission to move only after legal advocates intervened. This could have been avoided if the home had been properly inspected.

Sadly, this isn't an isolated incident. Since 2012, in Chicago alone at least 180 kids in section 8 housing have fallen

victim to this mismatch in the blood level standards. After hearing Lanice's story, the Chicago Housing Authority said it would voluntarily recognize the CDC guidelines, even though HUD didn't require them to. That is a good step. However, families all across America need the same relief that will come when HUD standards are changed. That is what this bill is all about. I commend it to my colleagues and hope they would look at it carefully in an effort to ensure that public housing is safe.

What did we learn in Flint, MI? We think 9,000 children were exposed to the lead in the water that has had an impact on them—for some, brain damage that cannot be reversed. Who will answer for the poisoning of 9,000 children? How can we answer to the next generation that faces this hazard if we don't take this important step?

We need to ensure that Federal lead standards are updated in accordance with the best available science, and adopt primary prevention measures to protect children from lead exposure in low-income housing. That means aligning HUD standards with the CDC's standards and requiring a risk assessment before a family moves into a home, and allowing mothers like Lanice Walker to move her family without the fear of losing assistance when a lead hazard is identified.

We all know how destructive lead poisoning is on children and our society. Yet, our federal policies are actually allowing young children to stay in unsafe homes for months after they have been diagnosed with lead poisoning. By updating HUD's regulations, we can protect the most vulnerable children from the harmful, irreversible effects of lead poisoning.

I hope my colleagues will join me in this important effort. American children are depending on it, and they cannot afford to wait.

Mr. President, we have a bill before us to deal with opioids and the heroin crisis. It is a crisis that hit Illinois and hit it hard. Across Illinois we suffered from over 1,700 drug overdose deaths in 2014—a 30-percent increase over 2010; 40 percent were associated with heroin.

Last October in Chicago, in a weekend, we had 74 people die from fentanyl-laced heroin overdoses in 72 hours. The Chicago metro area ranked first in the country, sadly, for total number of emergency department heroin visits. This is higher than New York, which has three times the population. This epidemic demands our attention. We need a comprehensive solution.

First, look at Pharma flooding America with opioids such as OxyContin, hydrocodone, and similar opioid products. In the last year, there was a calculation that there were some 14 billion opioid pills manufactured by pharmaceutical companies in America. That is enough to give every adult person in America a 1-month prescription of opioids. Naturally, everyone doesn't

need it, but they keep generating these volumes because the demand is there—not for medicinal purposes, sadly, but for narcotic purposes. The pharmaceutical industry has a responsibility, and doctors have a responsibility. Those pills don't move from the pharmaceutical companies to the end user except with a doctor and a pharmacy in most instances.

Many doctors are too loose in their prescriptions when it comes to painkillers. They prescribe too many pills. I guess somebody makes more money that way, or maybe doctors are not bothered on weekends that way, but, sadly, it puts into circulation a lot of medications that are not needed for pain. Some pharmacies know exactly what is going on as people walk in with scrip after scrip for opioids. They fill them without question. Many States don't have laws to monitor these sales.

Then comes the devastation of opioid addiction followed by heroin addiction. I have seen it across my State. There isn't a city too small or a suburb too wealthy or any corner of my State that hasn't been touched by this crisis. It is everywhere. Many of the kids that I have seen at these roundtables who have survived it and tell their heroic stories of coming back from heroin addiction—you look in their eyes and say: I would never have picked that kid out of a high school class to be a heroin addict. Some of them have been addicts for years before they finally get the treatment they need.

We need a comprehensive solution to address this crisis. We must prevent drug companies from flooding the market with excessive amounts of addictive pills. We must encourage the Drug Enforcement Administration to use their existing authority to keep unnecessary drugs off the market. We must crack down on doctors who over-prescribe and pharmacies that over-dispense. We must remove barriers to substance use disorder treatments, which is why Senator KING and I introduced legislation ensuring that lower-income patients suffering from substance abuse disorders are able to get the care they so desperately need. And we must put our money where our mouth is. We cannot expect real change to come about through good intentions. We can authorize all the programs we want, issue all the directives we want, cite all the statistics we want, but nothing will change unless we give our Federal agencies and local governments the resources necessary to tackle this complex problem head on.

This bill before us is a step in the right direction. It requires the establishment of a Federal interagency task force to develop best practices for pain management and pain medication prescribing, creates a national drug awareness campaign on the risks of opioid abuse, and authorizes grants to States, locals, and nonprofits to address opioid abuse and fund treatment alternatives.

This bill could have a positive impact on communities in need if we are able

to provide the necessary funding. That is why in addition to supporting the underlying bill I also strongly supported the amendment that Senator SHAHEEN offered last week. That amendment would have provided \$600 million in emergency supplemental appropriations to address the heroin and opioid abuse epidemic. These funds would have helped ramp up law enforcement efforts, drug treatment and enforcement programs, and prevention programs through the Justice Department. They would have enhanced prescription drug monitoring programs. They would have improved access to medication assisted treatment services to high-risk areas as well as support school and community partnerships to create safe and drug-free environments and provide additional assistance to States to help pay for prevention and treatment care.

Unfortunately, Senator SHAHEEN's amendment was defeated when a majority of Republicans decided to vote against it. If we fail to provide the needed resources to help communities and families in need, we may be back here a year from now saying we should have done more. Families in Illinois and across the country can't wait that long.

I support both the Comprehensive Addiction and Recovery Act and the Shaheen amendment. But the bill should also address some of the many issues I have learned about at roundtable discussions in Illinois while talking to families, doctors, law enforcement, and those who have overcome substance abuse addiction.

That is why I introduced several amendments that would have helped improve the underlying bill, from requiring greater consideration at FDA before new opioids can come onto the market, to creating incentives for States to improve their prescription drug monitoring programs, to removing existing barriers to substance abuse treatment for lower-income patients, to requiring greater transparency on how many opioids are being manufactured in the United States annually. I am disappointed that many of these amendments will not receive a vote this week, but I will continue working with my colleagues in the Senate to advance these important proposals.

Let me say that one of the things that has helped is the fact that years ago here in the U.S. Senate, two of my colleagues who no longer serve really did something historic. One was Paul Wellstone of Minnesota, who passed away in an airplane crash, and the other, Pete Domenici, a retired Senator from New Mexico. They required that every health insurance policy in America cover two things that weren't covered by many: one, mental health counseling and the other, substance abuse treatment.

We built that into ObamaCare, so when you buy a health insurance policy in America today, it covers sub-

stance abuse treatment as well as mental health counseling. Luckily for many families, when their kids end up being addicted, they can turn to their health insurance, and their health insurance can help pay for substance abuse treatment. We need other sources, as well, when it comes to treatment for Medicaid, but for those who want to repeal ObamaCare and get rid of it, that is another provision to ask them about. Do they really want to get rid of a requirement that health insurance policies cover mental health counseling and substance abuse treatment? I think it is important that we have it. I am not sure what we would do without it.

The opioid abuse and heroin epidemic is a national public health emergency that requires a comprehensive response coupled with the necessary funding to actually make a difference. The amendments I have filed, as well as the Shaheen amendment, would make important improvements and provide emergency funding to help families in Illinois and across the country. Our communities need us to come together as partners to help solve this problem. I hope we do not let them down.

FILLING THE SUPREME COURT VACANCY

Mr. President, I see my colleague from Oklahoma is here. This is the last statement I want to make, and it relates to the Supreme Court vacancy.

A group of historians and scholars sent a letter to President Obama about the Supreme Court vacancy occasioned by the death of Justice Antonin Scalia. The signers of the letter include Robert Dallek, Doris Kearns Goodwin, David M. Kennedy, Thomas E. Mann, Norman Ornstein, Geoff Stone, and numerous others.

The letter provides a helpful historical perspective on the decision by the Senate Republican majority to refuse any nominee to fill this vacancy a hearing before the U.S. Senate—something that has never happened in the history of the U.S. Senate.

The Senate Republicans have said to keep that Scalia vacancy right where it is—a 4-to-4 Supreme Court for at least a year longer. We haven't had a vacancy in the Supreme Court for over a year since the Civil War tore this Nation apart over 150 years ago.

This letter that has been sent to the President will be shared here. It makes clear that the actions that are being called for by the Republican majority are unprecedented—unprecedented. They have never happened—the fact that they would refuse to have a hearing for a nominee to fill the Scalia vacancy or a vote on that nominee.

One only has to go back to 1988, not that long ago, when President Ronald Reagan, a Republican outgoing President in the last year of his Presidency sent a name to the U.S. Senate, then in control by a Democratic majority, to fill a vacancy on the Supreme Court. Did the Democrats in the Senate in 1988 say to President Reagan: Oh, you are a lameduck. You are going to be

gone in a year. We will wait until after the election. No. They said the Constitution requires President Reagan to send the Senate a name, and it requires the Senate to advise and consent, and they did. They had a hearing and they had a vote and Anthony Kennedy, a Ronald Reagan appointee to the Supreme Court, was sent to the Supreme Court by President Ronald Reagan with the support of the Democratic Senate majority. That is consistent with the Constitution.

I hope we can return to that, and I hope that future generations will judge that this Senate under the control of the Senate majority party is going to live by the words of our Constitution.

As I mentioned, a number of prominent historians and scholars from across the political spectrum sent a letter to President Obama about the current vacancy on the Supreme Court.

This letter provides a helpful historical perspective on the decision by Senate Republicans not to give any consideration to the forthcoming Supreme Court nominee.

The letter begins by saying:

We express our dismay at the unprecedented breach of norms by the Senate majority in refusing to consider a nomination for the Supreme Court made by a president with 11 months to serve in the position. . . .

It is standard practice when a vacancy occurs on the Supreme Court to have a president, whatever the stage in his term, nominate a successor and have the Senate consider it. And standard practice (with limited exception) has been for the Senate, after hearings and deliberation, to confirm the president's choice, regardless of party control, when that choice is deemed acceptable to a Senate majority.

The letter notes that history is, "replete with instances where a vacancy on the Supreme Court was filled during a presidential election year."

This includes 1988 under President Reagan; 1940 under President Roosevelt; 1932 under President Hoover; 1916 for two nominees named by President Wilson; and 1912 under President Taft.

The letter also discusses how President Eisenhower used his recess appointment power in the presidential election year of 1956 to appoint Justice William Brennan. Eisenhower, a Republican, made that recess appointment on October 16 while the Senate was under Democratic control.

The letter says, "there was no objection to Eisenhower's use of the recess appointment—there was instead a widespread recognition that it was bad to have a Supreme Court operate for months without its full complement of nine members."

The letter then shifts from the lessons of history to the logical fallacies of the Republicans' position that a nominee of a so-called lame duck President should not be considered. Here's what it says:

If we accept the logic that decisions made by "lame duck" presidents are illegitimate or are to be disregarded until voters make their choice in the upcoming election, that

begs both the questions of when lame duck status begins (after all, a president is technically a 'lame duck' from the day of inauguration), and why senators up for reelection at the same time should not recuse themselves from decisions until the voters have decided whether to keep them or their partisans in office.

The letter ultimately concludes that, "the refusal to hold hearings and deliberate on a nominee at this level is truly unprecedented and, in our view, dangerous."

I hope my Republican colleagues heed the words of these preeminent historians.

There will be real consequences if the Senate fails to do its job and leaves a Supreme Court vacancy open for an extended time.

As President Ronald Reagan said in 1987, quote, "Every day that passes with a Supreme Court below full strength impairs the people's business in that crucially important body."

Major legal and constitutional questions are constantly brought before the Supreme Court for national resolution. When a case ends up with a tie vote among the Justices, the Supreme Court's ruling has no precedential impact and important questions go unresolved.

As Gregory Garre, former Solicitor General under President George W. Bush, recently said, "the prospect of numerous 4-4 ties or dismissals would be undesirable to the Court."

Millions of Americans are awaiting resolution of the questions that are before the Court. It is not fair to leave them twisting in the wind.

Consider the impact on the efforts of law enforcement to protect our communities.

On February 23, four former United States Attorneys wrote an op-ed in the Cincinnati Enquirer.

They said:

For federal prosecutors, agents and criminal investigations, a year is a lifetime. We have seen real threats, whether it is the heroin epidemic or the threat of ISIS recruitment, facing the people in our communities each day. While law enforcement stands ready to protect the public from those threats, they need to know the rules of the road.

The op-ed continues:

The Supreme Court is the ultimate arbiter of the hardest and most important questions facing law enforcement and our nation. Even as we write today, unsettled legal questions regarding search and seizure, digital privacy and federal sentencing are either pending before the Supreme Court or headed there. It is unfair and unsafe to expect good federal agents, police and prosecutors to spend more than a year guessing whether their actions will hold up in court. And it is just as unfair to expect citizens whose rights and liberties are at stake to wait for answers while their homes, emails, cell phones, records and activities are investigated.

We expect our law enforcement agents and prosecutors to do their job every day, even in election years. We should expect Senators to do their jobs as well and fill this Supreme Court vacancy.

Earlier this week, 356 constitutional law scholars wrote a letter to the Senate, explaining that "a long term vacancy jeopardizes the Supreme Court's ability to resolve disputed questions of federal law, causing uncertainty and hampering the administration of justice across the country."

Justice Scalia, in a 2004 memorandum discussing the Supreme Court's recusal policy, noted the problems the Court faces when only eight Justices hear a case. He said that when the Court proceeds to hear a case with eight Justices, it "rais[es] the possibility that, by reason of a tie vote, it will find itself unable to resolve the significant legal issue presented by the case." He then went on to note that under the Supreme Court's Statement of Recusal Policy, "even one unnecessary recusal impairs the functioning of the Court."

Why would the Senate purposefully try to impair the functioning of the Supreme Court by leaving it with only eight Justices?

The Senate should do its job and consider a Supreme Court nominee so the Court can function like it's supposed to. I urge my Republican colleagues to do their job. Give the President's nominee a hearing and a vote.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORPHAN DRUGS

Mr. HATCH. Mr. President, in light of recognition of Rare Disease Day, I wish to speak about orphan drug exclusivity and trade promotion authority.

Congress enacted the bipartisan Orphan Drug Act, "ODA", of 1983, Pub. L. 97-414, to address a longstanding unmet need to develop new treatments, diagnostics, and cures for rare diseases and disorders. I am proud to be one of the lead Senate sponsors of the ODA, which was passed with overwhelming bipartisan support. This act and the Rare Diseases Act of 2002—which I also championed—created financial incentives for the research and production of orphan drugs, including 7 years of market exclusivity, tax credits, and research grants, and also established the Orphan Products Board at FDA and the Office of Rare Diseases under the National Institutes of Health.

The purpose of these acts was to encourage the development of new "orphan" treatments, diagnostics, and cures for the millions of Americans with rare disease who lacked access to effective medicines because the existing incentives were insufficient to develop and market drugs for such small groups of patients.